

MASTER POWER PURCHASE AND SALE AGREEMENT

COVER SHEET

This *Master Power Purchase and Sale Agreement* (“*Master Agreement*”) is made and entered into as of the hour ending 24:00 on June 25, 2001 (the “Effective Date and Time”). The *Master Agreement*, together with the exhibits, schedules and any written supplements hereto, the Party A Tariff, if any, the Party B Tariff, if any, any designated collateral, credit support or margin agreement or similar arrangement between the Parties and all Transactions (including any confirmations accepted in accordance with Section 2.3 hereto) shall be referred to as the “Agreement.” The Parties to this *Master Agreement* are the following:

Name: **State of California Department of Water Resources**, separate and apart from its powers and responsibilities with respect to the State Water Resources Development System (“Buyer” or “Party A”)

All Notices: California Department of Water Resources

Street: 1416 Ninth Street

City: Sacramento, California Zip: 95814

Attn: Executive Manager Power Systems

Phone: 916 653-5913

Facsimile: 916 653-0267

Duns:

Federal Tax ID Number:

Invoices:

Attn: Contracts Payable

Phone: 916 653-6404

Facsimile: 916 654-9882

Scheduling:

Attn: Chief Water and Power Dispatcher

Phone: 916 574-2693

Facsimile: 916 574-2569

Payments:

Attn: Cash Receipts Section

Phone: 916 653-6892

Facsimile: 916 654-9882

Wire Transfer:

BNK:

ABA:

ACCT:

Credit and Collections:

Attn: Deputy Controller

Phone: 916 653-6148

Facsimile: 916 653-8230

Name: **Sunrise Power Company, LLC** (“Seller” or “Party B”)

All Notices:

Street: 1801 Von Karman Avenue, Suite 1700

City: Irvine, CA Zip: 92612-1046

Attn: Executive Director

Phone: 949-798-7956

Facsimile: 949-757-4766

Duns: 02-364-2627

Federal Tax ID Number: _____

Invoices:

Attn: Assistant Controller

Phone: 949-798-7802

Facsimile: 949-757-4743

Scheduling:

Attn: Chris Jylkka

Phone: 617-912-5937

Facsimile: 617-912-5707

Payments:

Attn: Assistant Controller

Phone: 949-798-7802

Facsimile: 949-757-4743

Wire Transfer:

BNK:

ABA:

ACCT:

Credit and Collections:

Attn: Treasurer

Phone: 949-798-7835

Facsimile: 949-757-4850

With additional Notices of an Event of Default or
Potential Event of Default to:
Attn: Deputy Controller
Phone: 916 653-6148
Facsimile: 916 653-8230

With additional Notices of an Event of Default or
Potential Event of Default to:
Attn: _____
Phone: _____
Facsimile: _____

The Parties hereby agree that the General Terms and Conditions are incorporated herein, and to the following provisions as provided for in the General Terms and Conditions:

Party A Tariff	Tariff _____	Dated _____	Docket Number _____
Party B Tariff	Tariff _____	Dated _____	Docket Number _____

Article Two

Transaction Terms and Conditions ☐ Optional provision in Section 2.4. If not checked, inapplicable.
Not Applicable

Article Four

Remedies for Failure to Deliver or Receive ☐ Accelerated Payment of Damages. If not checked, inapplicable.

Article Five

Events of Default; Remedies

☐ Cross Default for Party A: Not Applicable

☐ Party A: _____ Cross Default Amount \$ _____

☐ Other Entity: _____ Cross Default Amount \$ _____

☐ Cross Default for Party B: Not Applicable

☐ Party B: _____ Cross Default Amount \$ _____

☐ Other Entity: _____ Cross Default Amount \$ _____

5.6 Closeout Setoff

☐ Option A (Applicable if no other selection is made.)

☐ Option B - Affiliates shall have the meaning set forth in the Agreement unless otherwise specified as follows: _____

☒ Option C (No Setoff)

Article 8

Credit and Collateral Requirements

8.1 Party A Credit Protection:

(a) Financial Information: Not Applicable

☐ Option A

☐ Option B Specify: _____

☐ Option C Specify: _____

(b) Credit Assurances:

☒ Not Applicable
☐ Applicable

(c) Collateral Threshold:

☒ Not Applicable
☐ Applicable

If applicable, complete the following:

Party B Collateral Threshold: \$ _____; provided, however, that Party B's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party B has occurred and is continuing.

Party B Independent Amount: \$ _____

Party B Rounding Amount: \$ _____

(d) Downgrade Event:

☒ Not Applicable
☐ Applicable

If applicable, complete the following:

☐ It shall be a Downgrade Event for Party B if Party B's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party B is not rated by either S&P or Moody's

☐ Other:
Specify: _____

(e) Guarantor for Party B: Not Applicable

Guarantee Amount: Not Applicable

8.2 Party B Credit Protection:

(a) Financial Information:

☐ Option A
☐ Option B Specify: _____
☒ Option C Specify: annual audit, annual budget and all financial information sent to any seller under a power purchase agreement; Buyer shall use reasonable commercial efforts to periodically prepare and make available to Seller, but not more frequently than quarterly, financial information reasonably intended to apprise Seller of the financial condition of the Fund.

(b) Credit Assurances:

☒ Not Applicable
☐ Applicable

(c) Collateral Threshold:

- ☒ Not Applicable
☐ Applicable

If applicable, complete the following:

Party A Collateral Threshold: \$ _____; provided, however, that Party A's Collateral Threshold shall be zero if an Event of Default or Potential Event of Default with respect to Party A has occurred and is continuing.

Party A Independent Amount: \$ _____

Party A Rounding Amount: \$ _____

(d) Downgrade Event:

- ☐ Not Applicable
☒ Applicable

If applicable, complete the following:

- ☐ It shall be a Downgrade Event for Party A if Party A's Credit Rating falls below _____ from S&P or _____ from Moody's or if Party A is not rated by either S&P or Moody's

☒ Other:

Specify: See Section 8.2(d) of this Master Agreement.

(e) Guarantor for Party A: Not Applicable

Guarantee Amount: _____

Article 10

Confidentiality

☐ Confidentiality Applicable

If not checked, inapplicable.

Schedule M

☒ Party A is a Governmental Entity or Public Power System

☐ Party B is a Governmental Entity or Public Power System

☐ Add Section 3.6. If not checked, inapplicable

☐ Add Section 8.6. If not checked, inapplicable

Other Changes

Specify, if any: Yes. See below

Other Changes

Article One: General Definitions

1. The following shall be added at the beginning of Article One:

The following capitalized terms shall have the meaning ascribed to them in this Article One. Other capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Confirmation Agreement (as defined below).

2. The following sections are amended by deleting the text therefrom and by substituting “Intentionally Deleted.” in its stead:

Section 1.6	“Call Option”
Section 1.13	“Cross Default Amount”
Section 1.24	“Gains”
Section 1.28	“Losses”
Section 1.33	“Offsetting Transactions”
Section 1.34	“Option”
Section 1.35	“Option Buyer”
Section 1.36	“Option Seller”
Section 1.37	“Party A Collateral Threshold”
Section 1.38	“Party B Collateral Threshold”
Section 1.39	“Party A Independent Amount”
Section 1.40	“Party B Independent Amount”
Section 1.41	“Party A Rounding Amount”
Section 1.42	“Party B Rounding Amount”
Section 1.43	“Party A Tariff”
Section 1.44	“Party B Tariff”
Section 1.46	“Potential Event of Default”
Section 1.48	“Put Option”
Section 1.53	“Sales Price”
Section 1.56	“Settlement Amount”
Section 1.57	“Strike Price”

3. Section 1.10 is amended (a) to delete the parenthetical phrase “(unless otherwise provided for)” , and (b) to delete the word “Transaction” and substituting in its stead “Confirmation Agreement”.
4. Section 1.10 and Section 1.11 are amended to delete the respective definitions in their entirety and to replace the following in their stead:

“Contract Price” means the price, expressed in \$/MWh, that would be paid by Buyer to Seller for the purchase of the Product in any month, equal to the sum of (i) the VO&M Payment, (ii) the Fuel Payment for such month divided by the Net Electrical Output delivered during such month, and (iii) the Capacity Payment rate applicable to such month divided by the total number of hours in such month; all terms as specified in the Confirmation Agreement.”

“Costs” means, with respect to the Non-Defaulting Party, any and all costs and expenses directly or indirectly incurred by the Non-Defaulting Party in connection with the termination of this Master Agreement and the Confirmation Agreement upon an Event of Default by the Defaulting Party and/or in connection with entering into new contract(s) to replace this Master Agreement and the Confirmation Agreement upon such termination, including, but not limited to, brokerage fees, commissions, attorneys’ fees and other third party transaction costs and expenses. The Non-Defaulting Party shall use commercially reasonable efforts to mitigate or eliminate these Costs.”

5. Section 1.15 is amended to delete the words “as specified in the Transaction” and substituting in its stead “as specified in the Confirmation Agreement”.

6. Section 1.16 is amended to delete the words “as specified in the Transaction” and substituting in its stead “as specified in the Confirmation Agreement”.

7. Section 1.18 is deleted in its entirety and the following substituted in its stead:

“Early Termination Date” means the date of receipt of a notice of termination pursuant to Section 5.2.”

8. Section 1.20 is amended to add after the word “generally” therein the phrase: “(regardless of whether such enforcement is considered in a proceeding at law or in equity)”.

9. Section 1.23 is amended by deleting the text therefrom and substituting the following in its stead:

“Force Majeure” means any cause beyond the control of the Party affected, including but not restricted to, flood, drought, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority, and action or nonaction by, or failure to obtain the necessary authorizations or approvals from, any governmental agency or authority which by exercise of due diligence such Party could not reasonably have been expected to avoid and to the extent which by exercise of due diligence it has been unable to overcome.”

10. Section 1.47 and Section 1.51 are amended by deleting the respective definitions therefrom and substituting the following in their stead:

“Product” means the Contract Capacity (as defined in the Confirmation Agreement) and the associated energy therefrom.”

“Replacement Price” means the price, expressed in \$/MWh, at which Buyer, acting in a commercially reasonable manner, purchases a replacement for the Product requested by Buyer in a Dispatch Notice pursuant to the Confirmation Agreement but not delivered by Seller, plus (i) costs reasonably incurred by Buyer in purchasing such replacement energy and (ii) additional transmission and congestion charges, if any, that would be reasonably incurred by Buyer to bring such replacement energy to the CAISO zone in which the Delivery Point is located; provided, however, Buyer shall use reasonable efforts to purchase replacement energy at the lowest available price; and further provided, in no event shall such price include any penalties or charges imposed by Buyer, nor shall Buyer be required to utilize or change its utilization of its owned or controlled assets or market positions to minimize Seller's liability. For the purposes of this definition, Buyer shall be considered to have purchased replacement energy to the extent Buyer shall have entered into one or more arrangements in a commercially reasonable manner whereby Buyer repurchases its obligation to sell and deliver the Product to another party at the Delivery Point.”

11. Section 1.60 is amended by deleting the text therefrom and by substituting the following in its stead:

“Transaction” means the transactions described in the Confirmation Agreement for the purchase and sale of Contract Capacity (as defined therein), taken as a single, integrated transaction.

12. The following definitions shall be added in the appropriate alphabetical and numerical order in Article One:

“Bonds” mean any revenue bonds issued by Buyer and/or its permitted assignee for the purposes set forth in Section 80010(a) of the California Water Code (or permitted assignee's authorizing legislations), such purposes including, but not limited to, payment for power purchases by Buyer

from Seller under this Master Agreement and the Confirmation Agreement and from third parties under other power purchase agreements.

“Capacity Payment” has the meaning ascribed to such term in the Confirmation Agreement.

“Collateral” has the meaning ascribed to such term in Section 10.19(a).

“Confirmation Agreement” means that certain Confirmation Agreement, dated as of even date herewith, by and between Buyer and Seller.

“Contingent Lien” has the meaning ascribed to such term in Section 10.19(b).

“Department” has the meaning ascribed to such term in the Cover Sheet.

“Financial Closing” means the date on which binding commitments to provide financing to Seller under the Financing Documents are issued and effective, conditions to initial borrowings are satisfied, amounts become available for borrowing by Seller from the Lenders under the Financing Documents, and liens, security interests and/or mortgages are granted by Seller on Seller’s assets in favor of the Lenders providing financing to Seller under Financing Documents.

“Financing Documents” means any loan and credit agreements, notes, bonds, indentures, security agreements, lease financing agreements, mortgages, interest rate exchanges, swap agreements and other documents and instruments relating to the development, bridge, construction and/or permanent financing for the Facility, including, without limitation, any credit enhancement, credit support, working capital financing or refinancing documents, and any and all amendments, modifications or supplements to the foregoing that may be entered from time to time at the discretion of Seller.

“Fund” means the Department of Water Resources Electric Power Fund as set forth in California Water Code Section 80000 et seq. as established by February 1, 2001, Assembly Bill 1, First Extraordinary Session.

“Lenders” means any lenders and financial institutions (and their successors and assigns) providing financing to Seller under Financing Documents.

“Market Quotation Average Price” means the average of the good faith quotations solicited from not less than three (3) Reference Market-makers; provided, however, that the Party soliciting such quotations shall use commercially reasonable efforts to obtain good faith quotations from at least five (5) Reference Market-makers and, if at least five (5) such quotations are obtained, the Market Quotation Average Price shall be determined disregarding the highest and lowest quotations.

“Market Value” shall have the meaning set forth in Section 5.3.

“Party A” has the meaning ascribed to such term in the Cover Sheet.

“Party B” has the meaning ascribed to such term in the Cover Sheet.

“Per Unit Market Price” means the applicable price per MW-month of Contract Capacity and per MWh of Net Electrical Output determined in accordance with Section 5.3.

“Person” means any individual, corporation, limited liability company, partnership, limited partnership, joint venture, trust, unincorporated organization, association, governmental authority, or other entity.

"Reference Market-maker" means any recognized marketer, trader or tolling party contracting for tolling services whose long-term unsecured senior debt is rated BBB or better by Standard & Poor's and Baa2 or better by Moody's Investor Services.

"Replacement Contract" means a contract having a term, quantity, delivery rate, delivery point and Product substantially similar to the remaining Term, quantity, delivery rate, Delivery Point and Product to be provided under this Master Agreement and Confirmation Agreement.

"Seller" has the meaning ascribed to such term in the Cover Sheet.

"Subordinated Lien" has the meaning ascribed to such term in Section 10.19(a).

"Third Party Liens" has the meaning ascribed to such term in Section 10.19(b).

"Trust Estate" means all revenues under any obligation entered into, and rights to receive the same, and moneys on deposit in the Fund and income or revenue derived from the investment thereof.'

Article Two: Transaction Terms and Conditions

1. Section 2.1 is amended by deleting the text therefrom and substituting the following in its stead:

"The Transaction. The Transaction shall be entered into upon the execution by the Parties of this Agreement and the Confirmation Agreement. Each Party agrees not to contest, or assert any defense to, the validity or enforceability of the Transaction, this Master Agreement or the Confirmation Agreement based upon any lack of authority of the Party or any lack of authority of any employee of the Party to enter into the Transaction, this Master Agreement or the Confirmation Agreement."

2. Section 2.2 is amended by deleting the text therefrom and substituting the following in its stead:

"Governing Terms. The Confirmation Agreement and this Master Agreement shall form a single, integrated agreement between the parties with respect to the Transaction. In the event of any conflict between the Confirmation Agreement and this Master Agreement, the terms of the Confirmation Agreement shall govern.

3. Section 2.3 is amended by deleting the text therefrom and substituting the following in its stead:

"Confirmation. Buyer and Seller shall confirm the Transaction by executing and delivering to the other the Confirmation Agreement.

4. Section 2.4 and Section 2.5 are amended by deleting the text therefrom and substituting the following in its stead:

"Intentionally Deleted."

Article Three: Obligations and Deliveries

1. Section 3.1 is amended to delete the clause "With respect to each Transaction," and substituting therefor the clause "With respect to the Transaction," and to delete the clause " ; provided, however, with respect to Options, the obligations set forth in the preceding sentence shall only arise if the Option Buyer exercises it Option in accordance with it terms."

2. Section 3.2 is hereby amended delete from the first sentence the phrase "in the Transaction, or in the absence thereof," and substituting in its stead "in the Confirmation Agreement,".

3. Section 3.3 is hereby deleted in its entirety and the following substituted shall be substituted in its stead:

“Force Majeure. (a) No Party shall be considered to be in breach of this Master Agreement and/or the Confirmation Agreement to the extent that a failure to perform its obligations under this Master Agreement and/or Confirmation Agreement shall be due to Force Majeure. No Party shall, however, be relieved of liability for failure of performance to the extent that such failure is due to causes arising out of its own negligence or due to removable or remediable causes which it fails to remove or remedy within a reasonable time period. Nothing contained herein shall be construed to require a Party to settle any strike or labor dispute in which it may be involved. Any Party rendered unable to fulfill any of its obligations by reason of Force Majeure shall give prompt notice of such fact and shall exercise due diligence to remove such inability within a reasonable time period. If oral notice is provided, it shall be promptly followed by written notice. Notwithstanding the foregoing, Force Majeure shall not be based on (i) the loss of Buyer’s markets; (ii) Buyer’s inability economically to use or resell the Contract Capacity and Net Electrical Output (as defined in the Confirmation Agreement) purchased hereunder; (iii) the loss or failure of Seller’s supply, including, but not limited to, loss of Seller’s generating assets or contracts for the purchase of power or energy, unless such loss or failure results from Force Majeure or from the action or inaction of Buyer; or (iv) Seller’s ability to sell the Contract Capacity at a price greater than the Capacity Payment.

(b) Buyer shall not be relieved by operation of this Section 3.3 of any liability to pay for power delivered to Buyer by Seller or to make payments then due or which Buyer is obligated to make with respect to performance which occurred prior to the Force Majeure.

(c) If an event of Force Majeure prevents either Party from performing its material obligations under this Agreement for more than twelve (12) consecutive months, either Party may terminate this Agreement without further liability to the other Party.”

Article Four: Remedies for Failure to Deliver/Receive

1. Section 4.1 shall be deleted in its entirety and the following shall be substituted in its stead:

“Seller Failure. If Seller fails to deliver all or part of the Product requested by Buyer in a Dispatch Notice pursuant to the Confirmation Agreement, and such failure is not excused by the terms of the Confirmation Agreement, by Force Majeure, by Buyer’s failure to perform, or by any Scheduled Outage or Unscheduled Outage of the Facility, as defined in the Confirmation Agreement (a “Seller Failure”), Buyer may elect to receive payment from Seller of an amount equal to the product of the amount of the Product Seller fails to deliver multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Replacement Price; in such event, Seller shall make payment to Buyer by the later of the twentieth (20th) day of each month or the tenth (10th) day after receipt of the applicable invoice, whichever is later, which invoice shall include a written statement explaining in reasonable detail the calculation of such amount; provided, however, in the event that a Seller Failure is willful and Seller delivers power from the Facility to a party other than Buyer and other than pursuant to the terms of Section 5.06 and Section 5.07 of the Confirmation Agreement, such Seller Failure shall be deemed an Event of Default.”

2. Section 4.2 shall be deleted in its entirety and the following shall be substituted in its stead:

“Buyer Failure. If Buyer fails to schedule and/or receive all or part of Product pursuant to the Confirmation Agreement, and such failure is not excused by the terms of the Product, by Force Majeure or by Seller’s failure to perform, Buyer shall remain obligated to pay the Capacity Payment to Seller for such month on the date payment would otherwise be due.”

Article Five: Events of Default; Remedies

1. Section 5.1 is amended to delete subsections (g) and (h) in their entirety.
2. Section 5.2 is deleted in its entirety and the following substituted in its stead:

“Early Termination and Termination Payment upon an Event of Default. (a) If an Event of Default occurs and shall be continuing, the non-defaulting Party (the “Non-Defaulting Party”) shall have the right (a) to suspend or terminate this Master Agreement and the Confirmation Agreement upon written notice (by facsimile or other reasonable means) to the defaulting Party (the “Defaulting Party”), such notice of suspension or termination to be effective immediately upon receipt, and (b) to withhold any payments due to the Defaulting Party under this Master Agreement and/or the Confirmation Agreement. Subject to Section 8.2(b), in the event the Non-Defaulting Party elects to terminate this Master Agreement and the Confirmation Agreement for an Event of Default in accordance with the terms hereof and thereof, the Non-Defaulting Party shall be entitled to receive payment equal to the sum of the Market Value calculated in accordance with Section 5.3 (the “Termination Payment”), the Costs and any other amounts then due and payable from the Defaulting Party under this Master Agreement and the Confirmation Agreement.

(b) At any time prior to or after the receipt of such notice of suspension or termination by the Defaulting Party, the Non-Defaulting Party may exercise any remedies available to it at law or in equity, including, but not limited to, the right to seek injunctive relief to prevent irreparable injury to the Non-Defaulting Party.

(c) Notwithstanding any other provisions of this Master Agreement or Confirmation Agreement, if the Non-Defaulting Party has the right to liquidate or terminate all obligations arising under this Master Agreement and Confirmation Agreement under the provisions of this Article 5 because the Defaulting Party either (a) is the subject of a bankruptcy, insolvency, or similar proceeding, or (b) applies for, seeks, consents to, or acquiesces in the appointment of a receiver, custodian, trustee, liquidator, or similar official for all or a substantial portion of its assets, this Master Agreement, the Confirmation Agreement and the Transaction shall automatically terminate, without notice, as if the Early Termination Date was the day immediately preceding the applicable bankruptcy event.”

3. Section 5.3 is deleted in its entirety and the following shall be substituted in its stead:

“5.3. Termination Payment Calculations. The Non-Defaulting Party shall calculate, and shall be entitled to receive from the Defaulting Party, the Termination Payment as follows:

(a) Market Value shall be:

(i) in the case Buyer is the Non-Defaulting Party, the present value of the positive difference, if any, of (A) payments under a Replacement Contract based on the Per Unit Market Price, and (B) all payments owed by Seller to Buyer under this Master Agreement and the Confirmation Agreement; or

(ii) in the case Seller is the Non-Defaulting Party, the present value of the positive difference, if any, of (A) all payments owed by Buyer to Seller under this Master Agreement and the Confirmation Agreement, and (B) payments under a Replacement Contract based on the Per Unit Market Price,

in each case using the Present Value Rate as of the time of termination (to take account of the period between the time notice of termination was effective and when such amount would have otherwise been due pursuant to the relevant transaction).

"Present Value Rate" shall mean the sum of 0.50% plus the yield reported on page "USD" of the Bloomberg Financial Markets Services Screen (or, if not available, any other nationally recognized trading screen reporting on-line intraday trading in United States government securities) at 11:00 a.m. (New York, New York time) for the United States government securities having a maturity that matches the average remaining term of this Master Agreement.

The Parties expressly agree that the Non-Defaulting Party shall not be required to enter into a Replacement Contract in order to determine or to be entitled to receive the Termination Payment.

(b) To ascertain the Per Unit Market Price of a Replacement Contract with a term of less than one (1) year, the Non-Defaulting Party may consider, in its reasonable discretion, among other valuations, reliable quotations from Reference Market-makers, the settlement prices on established, actively traded power exchanges, other bona fide third party offers and/or other commercially reasonable market information.

(c) To ascertain the Per Unit Market Price of a Replacement Contract with a term of one (1) year or more, the Non-Defaulting Party shall use the Market Quotation Average Price; provided, however, that if there is an actively traded market for such Replacement Contract or if the Non-Defaulting Party is unable to obtain reliable quotations from at least three (3) Reference Market-makers, the Non-Defaulting Party shall use the methodology set forth in paragraph (b).

(d) In no event, however, shall a Party's Market Value or Costs include any penalties or charges imposed by the Non-Defaulting Party.

(e) The Termination Payment shall be payable by the Defaulting Party to the Non-Defaulting Party no later than one hundred eighty (180) days after Defaulting Party's receipt of the Non-Defaulting Party's written notice of termination of this Master Agreement and Confirmation Agreement.

If the Defaulting Party disagrees with the calculation of the Termination Payment and the Parties cannot otherwise resolve their differences, the calculation issue shall be resolved in accordance with the terms of this Master Agreement. Pending resolution of the dispute, the Defaulting Party (a) shall pay the undisputed amount, if any, of the Termination Payment to the Non-Defaulting Party, and (b) shall pay the disputed amount of the Termination Payment into an escrow account, in each case no later than one hundred eighty (180) days after receipt of the Non-Defaulting Party's written notice of termination of this Master Agreement and Confirmation Agreement."

4. Section 5.4, Section 5.5 and Section 5.6 are deleted in their entirety and following substituted in their stead:

"Intentionally Deleted."

Article Six: Payment and Netting

1. The Article Six heading is amended to delete the words "and Netting".

2. Section 6.1 is deleted in its entirety and the following substituted in its stead:

"Billing Period. Unless otherwise specifically agreed upon by the Parties in the Confirmation Agreement, the calendar month shall be the standard period for all payments under this Agreement (other than Accelerated Payments and, if "Accelerated Payment of Damages" is specified by the Parties in the Cover Sheet, payments pursuant to Section 4.1 or 4.2). As soon as practicable after the end of each month, Seller will render to Buyer an invoice for the payment obligations incurred hereunder during the preceding month."

3. Section 6.2 is deleted in its entirety and the following substituted in its stead:

“Timeliness of Payments. Buyer shall ensure that payments for amounts billed hereunder shall be paid so that such payments are received by Seller by the later of the twentieth (20th) day of each month or the tenth (10th) day after receipt of the applicable invoice, whichever is later. Payment shall be made at the location designated by Seller to which payment is due. Payment shall be considered received when Seller receives such payment from Buyer. If the due date falls on a non-Business Day, then the payment shall be due on the Business Day immediately preceding such due date. Amounts not paid on or before the due date shall be payable with interest accrued at the rate of one percent (1%) above the Pooled Money Investment Account rate accrued in accordance with California Government Code Section 927.6(6) not to exceed fifteen percent (15%).”

4. Section 6.4, Section 6.5, Section 6.6, Section 6.7 and Section 6.8 are deleted in their entirety and following substituted in their stead:

“Intentionally Deleted.”

5. The following new sections shall be added to Article Six:

“6.9 Payments Under Agreement an Operating Expense. Buyer agrees and covenants that all payments owing to Seller under this Master Agreement and the Confirmation Agreement shall constitute an operating expense of the Fund and shall be payable prior to payments on the Bonds, notes or other indebtedness secured by a pledge or assignment of the Trust Estate or payments to the general fund.

6.10 Transfers of Revenues. Buyer shall cause the resolution and indentures providing for the issuance of the Bonds, notes or evidence of indebtedness secured by a pledge of the Trust Estate to provide expressly that payments on the Bonds, notes or other indebtedness will be made by transfers of revenues to a fund established thereunder for such purpose and that any such transfers of revenues will be made only after payment of all amounts due and payable from the Trust Estate as operating expenses, including payments under this Master Agreement and the Confirmation Agreement.

6.11 Records Retention and Audit. (a) Buyer and Seller, or any third party representative thereof, shall keep complete and accurate records, and shall maintain such records and other data as may be necessary for the purpose of ascertaining the accuracy of all relevant bills, data, estimates, or statements of charges submitted hereunder. Such records shall be maintained for a period of three (3) years after final payment under this Master Agreement and the Confirmation Agreement. Within three (3) years from final payment under this Agreement and the Confirmation Agreement, any Party to any transaction may request in writing copies of the records of the other Party to the extent reasonably necessary to verify the accuracy of any statement or charge. The Party from which documents or data has been requested shall cooperate in providing the documents and data within a reasonable time period.

(b) Each of the parties and their designated representatives shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Master Agreement and the Confirmation Agreement. Each of the parties agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Each of the parties agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records.”

Article Seven: Limitations

Section 7.1 is amended (a) to delete the words “Except as set forth herein” from the first sentence; (b) to add at the beginning of the second sentence the phrase “Except for claims of anticipatory repudiation and the equitable remedies available thereunder,”; and (c) to delete the words “Unless expressly herein provided” from the fifth sentence and substituting in its stead “Notwithstanding anything to the contrary”.

Article Eight: Credit and Collateral Requirements

1. Section 8.1 and all subsections thereunder are deleted in their entirety and the following substituted in its stead:

“Intentionally Deleted.”

2. Section 8.2(d) is deleted in its entirety and the following substituted in its stead:

“Credit Assurances; Downgrade Event.

(i) In addition to other termination rights set forth in this Master Agreement and the Confirmation Agreement, Seller shall have the right, but not the obligation, to terminate this Master Agreement and the Confirmation Agreement without recourse against Buyer for any Termination Payment and without any further obligation or liability of either Seller or Buyer hereunder and thereunder (except for obligations and liabilities that have accrued prior to the date of termination), after the occurrence of either of the following:

(A) Buyer fails, on or before September 30, 2001: (1) to issue the Bonds, or (2) to obtain a rating on the Bonds of either Baa3 or better by Moody’s or BBB- or better by S&P; or

(B) Buyer fails to maintain at least one of said ratings at any time thereafter and such failure continues for thirty (30) or more consecutive days.

(ii) If Buyer determines for any reason not to rely on the ratings on the Bonds, including, but not limited to, any determination not to issue the Bonds, and Buyer gives Seller written notice of such determination on or before September 30, 2001, the foregoing sentence shall not apply and instead, in addition to any other termination rights herein, Seller shall have the right, but not the obligation, to terminate this Master Agreement and the Confirmation Agreement without recourse against Buyer for any Termination Payment and without any further obligation or liability of either Seller or Buyer hereunder or thereunder (except for obligations and liabilities that have accrued prior to the date of termination), after the occurrence of either of the following:

(A) Buyer’s failure, on or before September 30, 2001, to obtain a rating based on the ability of the Fund to pay its obligations under this Master Agreement and the Confirmation Agreement of either Baa3 or better by Moody’s or BBB- or better by S&P; or

(B) Buyer’s failure to maintain at least one of said ratings thereafter and such failure continues for thirty (30) or more consecutive days.

(iii) Seller acknowledges and agrees that any financing pursuant to Executive Order D-42-01 and the Credit and Security Agreement among the Department, various lenders and Morgan Guaranty Trust Company of New York, together with the private rating letters obtained by the State Treasurer from Standard & Poor’s and Moody’s Investors Service, meets the requirements of Section 8.2(d)(i)(A) above.

3. Sections 8.2(b), 8.2(c) and 8.2(e) are hereby deleted in their entirety and the following substituted in their stead:

“Intentionally Deleted.”

Article Ten: Miscellaneous

1. Section 10.1 is amended to delete the words “until terminated by either Party upon (thirty) 30 days’ prior written notice” and substituting the following in its stead:

“until terminated in accordance with the terms of the Confirmation Agreement”.

2. Buyer shall not be deemed to make the representations and warranties set forth in Sections 10.2 (ix) and (xi).

3. Section 10.2(iii) is amended to add the word “existing” before “law”.

4. Section 10.2 is amended to add the following”

“(xii) Each of Buyer, Seller and the Fund are solvent. No action has been instituted by or against any of Buyer, Seller or the Fund of a bankruptcy, reorganization, moratorium, liquidation or similar insolvency proceeding or other relief under any bankruptcy or insolvency law affecting creditor’s rights or petition have been presented or instituted for its winding-up or liquidation.”

5. Section 10.4 is amended to insert the phrase “To the extent permitted by law,” to the beginning of both sentences.

6. Section 10.5 is amended to delete the phrase “either Party may, without consent of the other Party (and without relieving itself from liability hereunder)” and substituting the following in its stead: “Seller (with respect to clauses (i), (ii) and (iii)) and Buyer (with respect to clauses (i) and (iv) only), may without consent of the other Party:”.

Section 10.5 is further amended to add the following clause (iv) at the end of such section:

“(iv) transfer and assign all of its right, title and interest in this Master Agreement, the Confirmation Agreement, the Fund, the Trust Estate and all Bonds, notes or other indebtedness secured by pledge or assignment of the Trust Estate, to another governmental entity lawfully created and designated by law to carry out, succeed to and assume all rights, powers, duties, waivers, covenants and obligations of Buyer thereunder, including, without limitation, covenants and obligations with respect to credit; provided that such governmental entity has substantially the same authority as Buyer to establish and to collect its revenue requirements; provided, further, however, that in the event this Master Agreement is pledged or assigned to a bond trustee pursuant to clause (i) as collateral for any Bonds, notes or other indebtedness issued by Buyer, such bond trustee shall not be required to agree in writing to be bound by the terms and conditions hereof.”

7. Section 10.6 shall be amended to delete “New York” and substitute “California” in its stead.

8. Section 10.8 is amended to delete the phrase “Except to the extent herein provided for,” from the fourth sentence and to add the end of such sentence the following: “ and this Master Agreement and the Confirmation Agreement may not be orally amended or modified.”

9. The following new section shall be added to Article Ten:

“10.13 SUBMISSION TO JURISDICTION; SERVICE OF PROCESS. THE PARTIES AGREE TO SUBMIT TO THE JURISDICTION OF THE STATE COURTS OF THE STATE OF CALIFORNIA. EACH PARTY AGREES TO APPOINT AN AGENT FOR SERVICE OF PROCESS IN THE STATE OF CALIFORNIA.

10.14 Waiver of Jury Trial. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION, CLAIM OR PROCEEDING RELATING TO THIS MASTER AGREEMENT AND/OR THE CONFIRMATION AGREEMENT.

10.15 Rate Covenant; No Impairment. In accordance with Section 80134 of the California Water Code, Buyer covenants that it will, at least annually, and more frequently as required, establish and revise revenue requirements sufficient, together with any moneys on deposit in the Fund, to provide for the timely payment of all obligations which it has incurred, including any payments required to be made by Buyer pursuant to this Master Agreement and the Confirmation Agreement. As provided in Section 80200 of the California Water Code, while any obligations of Buyer pursuant to this Master Agreement and the Confirmation Agreement remain outstanding and not fully performed or discharged, the rights, powers, duties and existence of Buyer and the California Public Utilities Commission shall not be diminished or impaired in any manner that will affect adversely the interests and rights of Seller under this Master Agreement or the Confirmation Agreement.

10.16 No More Favorable Terms. Buyer shall not provide in any power purchase agreement payable from the Trust Estate for (i) collateral or other security or credit support with respect thereto, (ii) a pledge or assignment of the Trust Estate for the payment thereof, or (iii) payment priority with respect thereto superior to that of Seller.

10.17 No More Favorable Immunity or Jurisdiction Provision. Buyer shall not offer to any party or provide in any power purchase agreement an immunity provision or a jurisdiction provision more favorable than the immunity provision set forth in Section 3.5 and the jurisdiction provision set forth in Section 10.13, without in each case offering such arrangements to Seller.

10.18 No Retail Services; No Agency. (a) Nothing contained in this Agreement shall grant any rights to or obligate Seller to provide any services hereunder directly to or for retail customers of any Person.

(b) In performing their respective obligations hereunder, neither Party is acting, or is authorized to act, as agent of the other Party.

10.19 Subordinated Lien.

(a) Upon the Financial Closing, Seller shall grant, and does hereby grant upon the Financial Closing, to Buyer a subordinated lien on the personal property and contracts of Seller (the "Collateral") to secure Seller's obligations under Section 4.1 and Section 5.2 of this Master Agreement (the "Subordinated Lien"). Buyer agrees and acknowledges that the Subordinated Lien shall at all times be inferior and subordinate to any and all right or title to, security interest in or lien on the Collateral granted by Seller from time to time in favor of the Lenders.

(b) Seller covenants that prior to Financial Closing it shall not grant any liens on the Collateral in favor of any third parties ("Third Party Liens"), other than construction liens, mechanics' liens, materialmen's liens, statutory liens, workmen's compensation liens, purchase money security interests and other ordinary course of business liens, without first granting, and does hereby grant immediately prior to the grant of any Third Party Liens, to Buyer a lien on the Collateral (the "Contingent Lien"). Buyer and Seller acknowledge and agree that, upon the Financial Closing, the Contingent Lien, if any, shall be discharged and the Subordinated Lien referred to in (a) above shall become effective.

(c) Subject to the next succeeding sentence, Buyer agrees that it shall timely and promptly prepare and/or review, execute and deliver to Seller from time to time any subordination agreements and other instruments required by the Lenders or Seller to evidence and/or confirm

subordination of the Subordinated Lien or any Contingent Lien. To facilitate Seller's obtaining financing of the Facility, Buyer shall make all reasonable efforts to accommodate the Lenders' requests, including to amend this Master Agreement and the Confirmation Agreement, to the extent that such amendments do not materially reduce Buyer's rights or materially increase Buyer's liabilities or obligations hereunder and thereunder, to protect the Lenders' senior lien.

(d) Buyer and Seller agree and acknowledge that the Subordinated Lien and any Contingent Lien shall be discharged, released and terminated upon the later of (i) termination of this Master Agreement and the Confirmation Agreement, and (ii) payment in full of any amounts payable under Section 4.1 and Section 5.2 of this Master Agreement; provided, however, any Contingent Lien shall be earlier discharged, released and terminated upon the discharge, release and termination of any Third Party Liens prior to Financial Closing and reinstated upon the subsequent granting of any Third Party Liens prior to Financial Closing. Buyer shall promptly execute and deliver to Seller from time to time such agreements and instruments as Seller may reasonably request to evidence and effect the discharge, release and termination of the Subordinated Lien and any Contingent Lien.

(e) Seller shall notify Buyer in the event 50% of the ownership interest in Seller is not transferred to Texaco Power and Gasification Holdings Inc. within 5 days of execution hereof or in the event that after such transfer such ownership of Seller changes such that Seller is wholly owned by one person or entity or affiliated group of entities; in such event, Seller shall, within 20 days of written request by Buyer, take such actions as may be necessary to satisfy the Buyer in its reasonable judgment that Seller or assets of Seller will not be consolidated with such person or entity or such person or entity's assets if such person or entity shall become Bankrupt.

10.20 Amendments and Modifications. This Master Agreement may not be modified or amended except by an instrument or instruments in writing signed by the Party against whom enforcement of any such modification or amendment is sought. Any Party may, only by an instrument in writing, waive compliance by the other Party with any term or provision of this Master Agreement on the part of such other Party to be performed or complied with. The waiver by a Party of a breach of any term or provision of this Master Agreement shall not be construed as a waiver of any subsequent breach.

10.21 Entire Agreement. This Master Agreement and the Confirmation Agreement, when executed, constitute the entire agreement by and between the parties and supersedes any prior understandings, agreements or representation by or between the parties, written or oral, to the extent they have related in any way to the subject matter hereof and thereof. In the event of any conflict between this Master Agreement and the Confirmation Agreement, the terms of Confirmation Agreement shall control.

10.22 Severability. In the event that any of the terms, covenants or conditions of this Master Agreement, or the application of any such term, covenant or condition, shall be held invalid as to any Person or circumstance by any court, regulatory agency, or other regulatory body having jurisdiction, all other terms, covenants or conditions of this Master Agreement and their application shall not be affected thereby, but shall remain in force and effect unless a court, regulatory agency, or other regulatory body holds that the provisions are not separable from all other provisions of this Master Agreement.

10.23 Counterparts. This Master Agreement may be executed in any number of counterparts, and upon execution by the parties, each executed counterpart shall have the same force and effect as an original instrument and as if the parties had signed the same instrument.

Schedule M

Schedule M shall be amended as follows:

1. The definition of “Act” shall be as follows:

“Act” means Sections 80000, 80002, 80002.5, 80003, 80004, 80010, 80012, 80014, 80016, 80100, 80102, 80104, 80106, 80108, 80110, 80112, 80116, 80120, 80122, 80130, 80132, 80134, 80200, 80250, 80260 and 80270 of the California Water Code, as amended.
2. The definition of “Governmental Entity or Public Power System” shall be deleted in its entirety and the following substituted in its stead:

“Governmental Entity or Public Power System” means the State of California Department of Water Resources separate and apart from its powers and responsibilities with respect to the State Water Resources Development System”; and all references to (A) "Governmental Entity or Public Power System" (and cognates) and (B) "Public Power System" (and cognates) in Schedule M shall be replaced with the new defined term "Governmental Entity" (using the applicable cognate).
3. The definition of “Special Fund” shall be deleted in its entirety and the following substituted in its stead:

“Special Fund” means the Fund.
4. Section D is amended to delete Section 3.5 in its entirety and the following substituted in its stead:

“Section 3.5 No Immunity Claim. California law authorizes suits based on contract against the State of California or its agencies, and Buyer agrees that it will not assert any immunity it may have as a state agency against such lawsuits filed in state court.”
5. Section G is amended to specify California law.
6. The following shall be added as new Section H:

“Application of Government Code and the Public Contracts Code. Seller has stated that, because of the administrative burden and delays associated with such requirements, it would not enter into this Master Agreement if the provisions of the California Government Code and the Public Contracts Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements and prompt payment requirements would apply to or be required to be incorporated in this Agreement. Accordingly, pursuant to Section 80014(b) of the California Water Code, Buyer has determined that it would be detrimental to accomplishing the purposes of Division 27 (commencing with Section 80000) of the California Water Code to make such provisions applicable to this Master Agreement and that such provisions and requirements are therefore not applicable to or incorporated in this Master Agreement.”
7. The following shall be added as new Section L:

“Section 3.11. Sources of Payment; No Debt of State. Seller’s obligation to make payments hereunder shall be limited solely to the Fund. Any liability of Buyer arising in connection with this Master Agreement or any claim based thereon or with respect thereto, including, but not limited to, any Termination Payment arising as the result of any breach or Potential Event of Default or Event of Default under this Master Agreement, and any other payment obligation or liability of or judgment against Buyer hereunder, shall be satisfied solely from the Fund. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE STATE OF CALIFORNIA ARE OR MAY BE PLEDGED FOR ANY PAYMENT UNDER THIS AGREEMENT. Revenues and assets of the State Water Resources Development System shall not be liable for or available to make any payments or satisfy any obligation arising under this Agreement.”

IN WITNESS WHEREOF, the Parties have caused this Master Agreement to be duly executed as of the Effective Date and Time.

**CALIFORNIA DEPARTMENT
OF WATER RESOURCES**

SUNRISE POWER COMPANY, LLC

By: _____
Name: Raymond D. Hart
Title: Deputy Director

By: _____
Name: Ronald Litzinger
Title: Authorized Representative

DISCLAIMER: This Master Power Purchase and Sale Agreement was prepared by a committee of representatives of Edison Electric Institute (“EEI”) and National Energy Marketers Association (“NEM”) member companies to facilitate orderly trading in and development of wholesale power markets. Neither EEI nor NEM nor any member company nor any of their agents, representatives or attorneys shall be responsible for its use, or any damages resulting therefrom. By providing this Agreement EEI and NEM do not offer legal advice and all users are urged to consult their own legal counsel to ensure that their commercial objectives will be achieved and their legal interests are adequately protected.

CONFIRMATION AGREEMENT (TOLLING)

This CONFIRMATION AGREEMENT (the "Agreement") is made and entered into as of the hour ending 24:00 on June 25, 2001, by and between the **Department of Water Resources**, an agency of the State of California, with respect to its responsibilities pursuant to California Water Code Section 80000 *et seq.* regarding the Department of Water Resources Electric Power Fund separate and apart from its powers and responsibilities with respect to the State Water Resources Development System (the "Department"), and **Sunrise Power Company, LLC**, a Delaware limited liability company (the "Seller").

WITNESSETH:

WHEREAS, Seller owns the Sunrise Power Project, a natural gas-fired power plant which is currently planned to be constructed in Kern County, California (the "Facility") in two phases: (1) the first phase ("Phase 1") comprising the time period set forth in Section 2.01 during which the Facility consists of two General Electric 7FA gas turbines, providing approximately 325 megawatts of peaking capacity and (2) the second phase ("Phase 2") comprising the time period set forth in Section 2.01 following the addition of a steam turbine generator, two heat recovery steam generators and other ancillary equipment to the Facility for the conversion of the power plant to an approximately 560 megawatt combined cycle facility, with supplemental duct firing.

WHEREAS, Seller submitted a proposal to the Department for the sale of Contract Capacity and associated Energy from the Facility.

WHEREAS, the Department has determined to accept Seller's proposal and the Department and Seller are concurrently herewith entering into a Master Power Purchase and Sale Agreement setting forth general terms and conditions for the purchase and sale of Contract Capacity and associated Energy from the Facility (the "Master Agreement").

WHEREAS, the Department and Seller desire to enter into this Agreement to confirm the specific terms of the purchase and sale of Contract Capacity and associated Net Electrical Output from the Facility as governed generally by the Master Agreement.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

DEFINITIONS

Definitions. The following terms shall have the respective meanings in this Agreement:

"Accepted Electrical Practices" means those practices, methods, applicable codes and acts engaged in or approved by a significant portion of the electric power industry during the relevant time period, or any of the practices, methods and acts which, in exercise of reasonable judgment in light of the facts known at the time a decision is made, that could have been expected to accomplish a desired result at reasonable cost consistent with good business practices, reliability, safety and expedition. Accepted Electrical Practices are not intended to be limited to the optimum practices, methods or acts to the exclusion of others, but rather to those practices, methods and acts generally accepted or approved by a significant portion of the electric power industry in the relevant region, during the relevant time period, as described in the immediately preceding sentence.

"Actual Capital Costs" means the sum of all Capital Costs actually incurred by or on behalf of Seller to complete construction of the Facility in its Phase 1 and Phase 2 configurations.

“Actual Heat Rate” means the quotient, expressed in Btu/kWh, of i) the HHV of the Fuel consumed by the Facility in a specified time period, divided by ii) the amount of Net Electrical Output produced by the Facility during that same time period.

“Annual Availability” means, in respect of any calendar year, a fraction the numerator of which shall be the number of hours which the Facility is Available during such calendar year, and the denominator of which is the total number of hours in such calendar year; provided that in the first calendar year of the Term, the denominator shall be the number of hours between Phase 1A COD and 2400 hours on December 31, and provided further that the Conversion Period shall be excluded from any calculation of Annual Availability.

“Annual Dispatch Schedule” shall have the meaning set forth in Section 6.06(b) hereof.

“Availability Notice” shall have the meaning set forth in Section 4.02 hereof.

“Available” means a condition in which the Facility is capable of providing service, whether or not it is actually in service, regardless of the capacity level that can be provided. After Phase 1B COD, the Facility shall be deemed fifty percent (50%) available whenever only one Unit is capable of providing service.

“Btu” means British thermal unit.

“Business Day” means any Day other than a Saturday, Sunday or a holiday in the United States observed by Federal Reserve member banks in New York City.

“CEC” means the California Energy Commission.

“CAISO” means the California Independent System Operator, or its successor.

“California Law” means the laws, regulations and rules of the State of California and/or its agencies, including, without limitation, tax laws that discriminate between electricity generators and other manufacturing taxpayers generally.

“Capacity Payment” shall have the meaning set forth in Section 7.01 hereof.

“Capital Costs” means the “hard costs” incurred by or on behalf of Seller to complete the construction and start-up of the Facility, generally summarized in the cost categories set forth on Schedule B attached hereto.

“Contract Availability” means (i) ninety-five percent (95%) for any Summer Period, and (ii) ninety-one and eight-tenths percent (91.8%) for any calendar year; provided however, the value set forth in (ii) shall be reduced by three and six-tenths percent (3.6%) for any calendar year in which a Unit hot gas path inspection occurs and by seven and four-tenths percent (7.4%) for any calendar year in which a Unit major overhaul occurs.

“Contract Capacity” shall have the meaning set forth in Section 3.03 hereof.

“Contract Heat Rate” shall have the meaning set forth in Section 11.01 hereof.

“Conversion Period” shall have the meaning set forth in Section 2.01 hereof.

“CPUC” means the California Public Utilities Commission.

“Day” means a period of twenty-four (24) consecutive hours (as shortened or lengthened for Daylight Savings Time), beginning with the hours ending 01:00 prevailing local time for the Facility.

“Delivery Point” means the 230 kV bus at Pacific Gas & Electric’s Midway Substation, at Buttonwillow, California.

“Dispatch” means to request or a request for Net Electrical Output from the Facility or any Unit.

“Dispatch Notice” shall have the meaning set forth in Section 5.01 hereof.

“ELX” means Edison International, a California corporation.

“Energy” means electrical energy expressed in MWh of the character commonly known as three (3) phase, sixty (60) hertz electric energy delivered at an acceptable voltage consistent with Accepted Electrical Practices and the requirements of the CAISO.

“Estimated Capital Costs” means the estimated Capital Costs for the Facility, projected by Seller as of the date hereof and as set forth on Schedule B attached hereto.

“Estimated Monthly Availability Schedule” shall have the meaning set forth in Section 4.01 hereof.

“Event of Default” shall have the meaning ascribed to such term in the Master Agreement.

“Facility” shall have the meaning set forth in the recitals hereof.

“Force Majeure” shall have the meaning ascribed to such term in the Master Agreement.

“Fuel” means natural gas that meets or exceeds the specifications set forth in the applicable transporter’s tariff.

“Fuel Costs” means any and all costs, expenses and charges incurred by Seller for the management, procurement, transportation, storage and delivery of Fuel used by the Facility in the production of Energy to be sold to the Department under this Agreement, including, without limitation, fuel commodity, firm contract reservation fees (regardless of whether Fuel is purchased, transported and/or stored during any month that such fees apply), transportation, storage, balancing and resale costs, expenses, fees, penalties and charges, and all taxes relating to the same.

“Fuel Plan” means a plan prepared and proposed by Seller for the supply of Fuel to the Facility based upon an Annual Dispatch Schedule, which plan shall take into consideration any existing multi-year Fuel supply and transmission contracts previously entered into for the Facility and shall propose a mix of long-term, short-term and spot market Fuel purchases.

“Fuel Manager” means an affiliate of Seller or the person or company contracted by Seller to provide fuel management services for the Facility.

“Fuel Supply Contracts” shall have the meaning set forth in Section 6.05 hereof.

“Full Load” means the operating state of the Facility during which all of the Units are operated at their “base load” Net Electrical Output under prevailing conditions, without duct firing, and in such a way as to be sustainable for long periods of time without adversely affecting the normal maintenance requirements of the Facility.

“Heat Rate Ratio” shall have the meaning set forth in Section 11.03 hereof.

“HHV” means the higher heating value energy content of the Fuel as determined by the fuel transporter delivering such Fuel to the Facility.

“Incremental Fuel Costs” means any and all costs, expenses and charges incurred by Seller for the management, procurement, transportation, storage and delivery of Fuel used by the Facility in the production of Undispatched Energy, to the extent that such costs, expenses and charges are incrementally in excess of the Fuel Costs that would have been incurred in the absence of producing such Undispatched Energy.

“Invoice Month” means the calendar month after the delivery of Contract Capacity and/or Net Electrical Output for which an invoice is being issued.

“kWh” means kilowatt-hour.

“Master Agreement” shall have the meaning set forth in the recitals hereof.

“Market Price” means the lowest price of the good faith price quotations that satisfies Seller’s requirements for the relevant time period solicited from not less than three (3) marketers, traders, or sellers of Fuel.

“Maximum Load” means the operating state of the Facility during which all of the Units are operated at Full Load and the Facility’s duct burners are turned on to maximize Net Electrical Output within the Permit Limits and prevailing conditions.

“Metering Point” means the point at or near where the bus at the 230 kV side of the Facility’s generation step-up transformer(s) connects with the transmission line leaving the Facility.

“Metering System” means all meters, metering devices and related instruments used to measure and record the delivery and receipt of Net Electrical Output and Contract Capacity at the Delivery Point.

“Minimum Load” means the operating state of the Facility during which only one of the Units is operating and is operated at the minimum load consistent with Accepted Electrical Practices, which is presently estimated to be sixty percent (60%) of Full Load and the Facility’s duct burners are turned off to minimize Net Electrical Output within the Permit Limits and prevailing conditions.

“MMBtu” means one million Btu’s.

“Monthly Dispatch Schedule” shall have the meaning set forth in Section 5.02 hereof.

“MOU” means that certain Memorandum of Understanding, dated as of April 9, 2001, by and among the Department, SCE and EIX.

“MWh” means megawatt-hour.

“Net Electrical Output” means the net Energy delivered by Seller to the Department at the Delivery Point pursuant to this Agreement, after reduction for transmission losses up to the Delivery Point, but prior to any generator meter multiplier reduction applied by the CAISO.

“Net Profit” means the positive difference, if any, between (i) the revenue received by Seller in respect of a sale of Undispatched Energy, and (ii) the cost to Seller of producing such Undispatched Energy, which costs shall include those for Fuel, transmission, charges or penalties for non-delivery of firm energy (if any), CAISO charges, emission allowances, third party transaction fees, and an amount equal to the VO&M payment.

“Nomination Deadline” means the daily deadline by which Kern River Gas Transmission requires day-ahead gas delivery schedules to be submitted, currently 11:30 a.m. prevailing Central Time each Day for gas flow beginning at 9:00 a.m. prevailing Central Time the succeeding Day.

“Outage Schedule” shall have the meaning set forth in Section 4.03 hereof.

“Part Load” means the operating state of the Facility during which all of the Units are operated at the minimum load consistent with Accepted Electrical Practices, which is presently expected to be sixty percent (60%) of Full Load and the Facility’s duct burners are turned off.

“Permit Limits” means the limitations on the operation of the Facility set forth on Schedule A hereto.

“Person” means any individual, corporation, limited liability company, partnership, limited partnership, joint venture, trust, unincorporated organization, association, governmental authority, or other entity.

“Phase 1” shall have the meaning set forth in the recitals hereof.

“Phase 1A COD” shall have the meaning set forth in Section 2.03 hereof.

“Phase 1B COD” shall have the meaning set forth in Section 2.03 hereof.

“Phase 1 Term” shall have the meaning set forth in Section 2.01 hereof.

“Phase 2” shall have the meaning set forth in the recitals hereof.

“Phase 2 COD” shall have the meaning set forth in Section 2.04 hereof.

“Phase 2 Capacity Payment” shall have the meaning set forth in Section 7.01(b) hereof.

“Phase 2 Term” shall have the meaning set forth in Section 2.01 hereof.

“Scheduled Outages” means a period during which either or both Units are not Available for operation due to planned maintenance that has been scheduled in advance in accordance with Section 4.03 hereof.

“Scheduling Coordinator” means the entity which is responsible for performing the responsibilities defined for such a party in the CAISO tariff, including but not limited to scheduling the Net Electrical Output from the Facility with the CAISO.

“SCE” means Southern California Edison Company, a California corporation.

“Standard Site Conditions” means the following conditions:

Ambient Temperature	59F
Relative Humidity	60%
Barometric Pressure	13.98 psia
Generator Power Factor	0.90

“Start-Up” means the action of bringing a Unit from non-operation to the output level required pursuant to the applicable Dispatch Notice from the Department.

“Start-Up Notification Lead Time” means the time period required by Seller to complete Start-Up of a Unit or Units, not to exceed 1 hour during Phase 1 and 4 hours during Phase 2, measured from the time of commencement of such Start-Up until the Facility is operating at the level of output required by the applicable Dispatch Notice.

“Summer Availability” means, in respect of any Summer Period, a fraction, the numerator of which shall be the number of hours during which the Facility is Available during such Summer Period, and the denominator of which is the total number of hours in such Summer Period; provided, however, for the first contact year, the denominator shall be the number of hours between Phase 1A COD and the end of the Summer Period, and provided further that the Conversion Period shall be excluded from any calculation of Summer Availability.

“Summer Period” means, in any year during the Term, the period which includes all hours of June, July, August and September of any year during the Term.

“Test Energy” means any Net Electrical Output that is produced by the Facility in connection with heat rate testing and other testing of the Facility or any Unit prior to the Phase 1A COD or during the Conversion Period, and any Net Electrical Output produced by the second Unit after Phase 1A COD but prior to Phase 1B COD.

“Term” shall have the meaning set forth in Section 2.01.

“Undispatched Energy” shall have the meaning set forth in Section 5.06.

“Unit” means any one of the two combustion turbine generating units of the Facility.

“Unscheduled Outage” means a period during which either or both Units are not Available for operation due to the need to maintain or repair a component of the Facility that has not been scheduled in advance.

“Utility Rate” means, at any time, the then-effective rate schedule issued by Pacific Gas & Electric Company under which Seller purchases standby, start-up, and auxiliary electric demand and energy service for the Facility.

“VO&M” shall have the meaning set forth in Section 7.02 hereof.

“Weekly Dispatch Schedule” shall have the meaning set forth in Section 5.02 hereof.

Interpretation. Unless the context otherwise requires:

Words singular and plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other.

(a) Any reference in this Agreement to any Person includes its successors and assigns and, in the case of any government agency, any Person succeeding to its functions and capacities.

(b) Any reference in this Agreement to any Section or Schedule means and refers to the Section contained in, or Schedule attached to, this Agreement.

(c) Other grammatical forms of defined words or phrases have corresponding meanings.

(d) A reference to writing includes typewriting, printing, lithography, photography and any other mode of representing or reproducing words, figures or symbols in a lasting and visible form.

(e) A reference to a specific time for the performance of an obligation is a reference to that time in the place where that obligation is to be performed.

(f) A reference to a party to this Agreement includes that party's successors and permitted assigns.

(g) A reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, amended, supplemented or restated from time to time.

(h) If any payment, act, matter or event hereunder would occur on a Day that is not a Business Day, then such payment, act, matter or event shall, unless otherwise expressly provided for herein, occur on the last prior Business Day.

(i) Words not otherwise defined herein that have well-known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

(j) References to articles, sections, subsections and attachments shall be to such portions of this Agreement. The words "herein", "hereof", "hereto", "hereunder" and words of similar import shall refer to this Agreement.

(k) Other capitalized terms used but not defined herein shall have the same meaning as given in the Master Agreement.

TERM/COMMERCIAL OPERATION OF THE FACILITY

Term. Unless earlier terminated as provided herein, the term of this Agreement shall consist of (a) a term commencing on the date of this Agreement and terminating at 2400 hours on February 28, 2003 ("Phase 1 Term"), and (b) a term commencing at the conclusion of the Phase 1 Term and terminating at 2400 hours on December 31, 2011 ("Phase 2 Term"); provided, however, in the event that Seller determines that it will be unable to complete the delivery and installation of the equipment needed to convert the Facility to combined cycle operation by 0000 hours on June 1, 2003, Seller may extend the Phase 1 Term through a date no later than 2400 hours on December 31, 2003, in which case the Phase 2 Term shall commence at the conclusion of the extended Phase 1 Term and terminate at 2400 hours on December 31, 2012. The Phase 1 Term and the Phase 2 Term are collectively referred to herein as the "Term". The Facility will be undergoing construction between the conclusion of the Phase 1 Term and the Phase 2

COD, during which time it will be inoperable (except for Test Energy in connection with the construction) and not Available for Dispatch by the Department (the "Conversion Period").

Phase 1 Actual Commercial Operations. Actual commercial operations for the first Unit ("Phase 1A COD") and the second Unit during Phase 1 ("Phase 1B COD") will occur when Seller has determined that all of the following requirements have been met: (a) all Facility systems necessary for the continuous operation of each Unit are complete, (b) tests of all equipment and systems necessary to demonstrate the reliable operation of each Unit at a capacity of at least 150 MW, adjusted to Standard Site Conditions, have been successfully completed, (c) the electrical interconnection agreement is in place and the electrical interconnection facilities have demonstrated the ability to accept the full-load output of each Unit of the Facility for Phase 1, and (d) the gas interconnection agreement and the gas interconnection facilities are in place. Seller will use commercially reasonable efforts to achieve Phase 1A COD by 0000 hours on July 16, 2001 and Phase 1B COD by 0000 hours on July 30, 2001. The parties acknowledge and agree that the effectiveness of this Agreement is conditioned upon Seller's successful completion of permitting, development and construction of Phase 1 of the Facility, and neither party shall have any liability to the other under this Agreement in the absence of such successful completion.

Phase 2 Actual Commercial Operations. Actual commercial operations for Phase 2 of the Facility ("Phase 2 COD") will occur when Seller has determined that all of the following requirements have been met: (a) all Facility systems necessary for the continuous operation of the Units together with the additional equipment required for combined cycle operation are complete, (b) tests of all equipment and systems necessary to demonstrate the reliable operation of the Facility in combined-cycle mode at a capacity of at least 515 MW, adjusted to Standard Site Conditions, have been successfully completed, (c) the electrical interconnection agreement is in place and the electrical interconnection facilities have demonstrated the ability to accept the full-load output of the Facility for Phase 2, (d) the gas interconnection agreement and the gas interconnection facilities are in place, and (e) Seller shall have received all necessary permitting and regulatory approvals of the combined-cycle configuration, including, without limitation, certification from the CEC. Seller will use its reasonable efforts to achieve Phase 2 COD by 0000 hours on August 1, 2003. The Parties acknowledge and agree that the effectiveness of this Agreement beyond Phase 1 is conditioned upon Seller's successful completion of permitting, development and construction of Phase 2 of the Facility, and neither party shall have any liability to the other under this Agreement beyond Phase 1 in the absence of such successful completion.

Penalty for Delayed Phase 1. In the event that Phase 1A COD or Phase 1B COD does not occur on or prior to August 15, 2001 for any reason other than Force Majeure, Seller shall incur a penalty of \$1M. In the event that both Phase 1A COD and Phase 1B COD do not occur on or prior to August 15, 2001 for any reason other than Force Majeure, Seller shall incur a penalty of \$2M. Such penalty shall be payable as a credit against the first \$1M or \$2M, as applicable, of Capacity Payments invoiced by Seller to the Department.

Progress Reports. Within thirty (30) Days following the end of each calendar quarter ending prior to Phase 2 COD, Seller shall provide the Department with a brief report describing the status of Facility construction and any material changes in Estimated Capital Costs.

PURCHASE AND SALE OF CONTRACT CAPACITY AND NET ELECTRICAL OUTPUT

Purchase and Sale of Contract Capacity and Net Electrical Output. Seller shall sell and deliver to the Department at the Delivery Point, and the Department shall purchase, receive at the Delivery Point, and pay for, the Contract Capacity and the Net Electrical Output. Other than CAISO charges, Seller shall be responsible for any non-Fuel production costs or charges imposed on or associated with the Contract Capacity and associated Energy up to the Delivery Point and any non-Fuel transmission costs from the Facility to the Delivery Point. The Department shall be responsible for any costs or charges imposed on or associated with the Contract Capacity and Net Electrical Output or its receipt at and from the Delivery Point, any transmission losses from the Delivery Point and any losses associated with the generator meter multiplier or other charges assessed by the CAISO on the Net Electrical Output. Seller shall operate and maintain the Facility in accordance with Accepted Electrical Practices.

Capacity Testing.

(l) Seller shall provide the Department at least seven (7) Days' notice if Seller intends to conduct a capacity test. Any capacity test may be conducted during the course of regular operations or during a test conducted for the purpose. The Department shall have the right to have one or more representatives observe such capacity tests. In the event that Seller elects to perform a capacity test during a period that the Department has not otherwise elected to Dispatch the Facility, the Department shall issue a Dispatch Notice for purposes of the capacity test that calls for at least six consecutive Full Load operating hours and shall schedule operation of the Facility with the CAISO. The Department will pay Seller for Net Electrical Output delivered during any capacity test as provided in Article X.

(m) Capacity tests may begin only after the Facility has been successfully started and has been in stable steady-state operation for at least one (1) hour prior to the test period. During the capacity test, Seller shall operate the Facility in a manner that it is willing to operate on a sustained basis under prevailing conditions.

(n) Within ten (10) Days following any capacity test, Seller shall provide the Department with the results of such capacity test, including Metering System readings and copies of Facility log sheets verifying the operating conditions and Net Electrical Output of the Facility during the test, and a curve of the Net Electrical Output versus ambient temperature.

(o) In the event that the Contract Capacity determined by any capacity test is unsatisfactory to Seller, Seller may schedule up to two (2) additional replacement capacity tests within any calendar year.

Contract Capacity. The contracted generating capacity of the Facility shall be equal to the Net Electrical Output averaged over four (4) consecutive hours selected by Seller, corrected to Standard Site Conditions using a curve of the Net Electrical Output versus ambient temperature (“Contract Capacity”), as determined by capacity testing at Full Load pursuant to Section 3.02 at the following times for Phase 1: (a) within thirty (30) Days following Phase 1A COD, (b) within thirty (30) Days following Phase 1B COD, and (c) annually thereafter at a time chosen by Seller during the weekday on-peak periods of the months of April or May preceding each Summer Period. The Contract Capacity during the Conversion Period shall be the Contract Capacity last demonstrated prior to the beginning of the Conversion Period. The Contract Capacity of the Facility during Phase 2 shall be determined by capacity testing at Maximum Load pursuant to Section 3.02 at the following times: (x) within thirty (30) Days following Phase 2 COD, and (y) annually thereafter at a time chosen by Seller during the weekday on-peak periods of the months of April or May preceding each Summer Period. The Contract Capacity demonstrated during subsequent capacity tests shall be applied for payment purposes beginning on the first Day of the first month following delivery of the test results to the Department.

Section 1.02 Transmission and Scheduling. Seller shall arrange and be responsible for transmission service to deliver the Contract Capacity and the Net Electrical Output to the Delivery Point. The Department shall arrange and be responsible for transmission service at and from the Delivery Point and shall schedule with the CAISO or other transmission providers as necessary to receive the Contract Capacity and the Net Electrical Output at the Delivery Point. The Department shall be the Scheduling Coordinator for the Facility and shall be responsible for any costs or charges assessed by the CAISO in the Department’s role as Scheduling Coordinator for the Facility and for any operations related charges applied by the CAISO under a participating generator agreement between Seller and the CAISO. In its role as the Scheduling Coordinator, the Department shall also be responsible for reconciling and settling the charges and/or credits associated with the Net Electrical Output with the CAISO. Seller shall provide the Department with such data as is necessary for the Department to carry out its responsibilities as Scheduling Coordinator. The Department may, at a cost to the Department to be mutually agreed between the Department and Seller, delegate to Seller its responsibilities as the Facility’s Scheduling Coordinator.

AVAILABILITY; SCHEDULED OUTAGES

Availability Schedule. Not later than ten (10) Business Days prior to the beginning of each month during the Term following Phase 1A COD, Seller shall provide a non-binding hourly schedule of the estimated amounts of Net Electrical Energy that the Facility will be Available to produce for the upcoming month (each an “Estimated Monthly Availability Schedule”), along with a non-binding estimate of the Fuel Payment

plus O&M Payment per MWh (at Minimum Load, Part Load, Full Load, and incrementally to Maximum Load) and Start-Up payment per start for such month. The estimated amounts of Net Electrical Energy that the Facility will be Available to produce contained in any Estimated Monthly Availability Schedules and Availability Notices shall be based upon typical ambient temperatures.

Section 1.03 Availability Notice. Not later than two (2) Days before each Day during the Term following Phase 1A COD, Seller shall provide the Department a schedule of the amounts of Net Electrical Energy that the Facility is expected to be Available to produce each hour of such Day (each an “Availability Notice”). Availability Notices for Sundays and Mondays shall be provided on the preceding Fridays. Seller shall accommodate the Department’s reasonable requests for changes in the time of delivery of Availability Notices.

Section 1.04 Scheduled Outages. Not later than forty-five (45) Days prior to the commencement of any calendar year during the Term, Seller shall submit to the Department its schedule of Scheduled Outages for the upcoming year (“Outage Schedule”). Within ten (10) Days after its receipt of the Outage Schedule, the Department shall notify Seller in writing of any reasonable request for changes to the Outage Schedule. If the Department fails to provide such notice within the prescribed period, the Department shall be deemed to have approved the Outage Schedule. If the Department requests changes to the Outage Schedule, it shall suggest alternative dates in writing to Seller. If Seller can accommodate such alternate dates within Accepted Electrical Practices and any obligations it may have to coordinate Outage Schedules with CAISO, such alternate dates shall be accepted, provided that any costs and expenses in connection with such requested alternative date shall be borne solely by the Department. Seller may make reasonable requests to change the approved Outage Schedule. If the Department can accommodate such alternate dates, or if the alternate dates are imposed on Seller by CAISO under any rights CAISO may have, such dates shall be accepted. No Scheduled Outages shall be scheduled during the Summer Period. Seller shall notify the Department of Unscheduled Outages as soon as practicable after the condition becomes known to Seller.

Section 1.05 Notice Suspension. The obligation to provide Estimated Monthly Availability Schedules and Availability Notices shall be suspended during the Conversion Period.

DISPATCH; START-UPS

Dispatch. The Department shall have the right to Dispatch the Facility at any level of output between Minimum Load and Full Load during the Phase 1 Term, and between Minimum Load and Maximum Load during the Phase 2 Term, by providing to Seller a dispatch notice (“Dispatch Notice”) in the form of Exhibit A attached hereto setting forth the Department’s desired hourly operating levels for the relevant Day, provided that:

each such Dispatch Notice shall be given to Seller not less than one hour prior to the Nomination Deadline for the relevant Day;

during the Phase 1 Term, any Dispatch shall be for a run time of no less than two (2) consecutive hours per Unit and during the Phase 2 Term, any Dispatch shall be for a run time of no less than six (6) consecutive hours per Unit;

any Dispatch that requires a Start-Up of a Unit or Units shall be provided with advance notice of not less than the Start-Up Notification Lead Time for such Unit or Units and shall reflect the typical ramp-up of Net Electrical Output during a Start-Up of such Unit or Units;

any Dispatch shall be subject to the Permit Limits;

any Dispatch shall be within the limits of Net Electrical Output set forth in the applicable Availability Notice from Seller and subject to any lower limits that may result from mechanical or climatic conditions at the Facility arising subsequent to such Availability Notice; and

the rate of change in scheduled hourly levels of Net Electrical Output shall not exceed the ramp rate of the Facility operating in accordance with Accepted Electrical Practices.

In the event that the Department provides a Dispatch Notice that does not comply with the foregoing limitations, Seller shall notify the Department as soon as Seller becomes aware of such non-compliance. If the Department provides a compliant replacement Dispatch Notice prior to the Nomination Deadline for the relevant Day, Seller shall operate the Facility in accordance with such replacement Dispatch Notice. If a compliant Dispatch Notice is not received by the Nomination Deadline, Seller shall operate the Facility in the state called for in the last hour of the last compliant Dispatch Notice until it receives a revision pursuant to Section 5.04. Seller shall, by facsimile or e-mail, confirm to the Department its receipt of each Dispatch Notice.

Estimated Dispatch Schedules.

Not later than seven (7) Business Days prior to the beginning of each month during the Term following Phase 1A COD, the Department shall provide Seller a non-binding hourly schedule of its expected Dispatch (as Maximum Load, Full Load, Part Load, Minimum Load, or zero) of the Facility for the upcoming month (each a “Monthly Dispatch Schedule”).

Not later than noon each Friday during the Term following Phase 1A COD, the Department shall provide Seller a non-binding hourly schedule of its expected Dispatch (as Maximum Load, Full Load, Part Load, Minimum Load, or zero) of the Facility for the week beginning on the upcoming Monday (each a “Weekly Dispatch Schedule”).

Notice Suspension. The obligation to provide Monthly Dispatch Schedules, Weekly Dispatch Schedules, and Dispatch Notices shall be suspended during the Conversion Period.

Intra-Day Dispatch. In addition to the Department’s rights to Dispatch the Facility pursuant to Section 5.01, the Department may make revisions in the schedule contained in any Dispatch Notice after the Nomination Deadline for the relevant Day, subject to the other limitations set forth in Section 5.01, and further subject to Seller’s ability to obtain any additional Fuel required to comply with such revision, by providing notice to Seller at least three (3) hours prior to the hour affected by the revision. All costs incurred by or on behalf of Seller in connection with the Department’s revisions to any schedule set forth in a Dispatch Notice shall be borne solely by the Department and shall be included in the Fuel Costs.

Imbalance Costs. The Department recognizes that its purchases of Net Electrical Output are on a unit-contingent basis, and the actual amounts of Net Electrical Energy delivered in any hour depend on mechanical and climatic conditions prevailing at the Facility at the time of production, among other factors. Seller recognizes that CAISO may assess imbalance costs when the Net Electrical Output deviates from the amounts Dispatched by the Department and pre-scheduled with CAISO. Seller agrees, within Accepted Electrical Practices, to cooperate with the Department to minimize such imbalance costs. The Department shall bear any imbalance costs assessed by the CAISO, except to the extent the costs result from Seller’s failure to adhere to any Dispatch Notice for reasons other than prevailing mechanical or climatic conditions at the time of any such failure. Upon request, Seller shall provide operational and maintenance records for the Facility to the Department for review.

Dispatch by CAISO. The Department recognizes that, pursuant to an order of the FERC (in Docket EL00-95-012 or otherwise), Seller may be required to offer for sale to CAISO in CAISO’s real time market, any Net Electrical Output that is Available and not already Dispatched on a day-ahead basis by the Department (“Undispatched Energy”). In the event that CAISO exercises any right it may have to purchase Undispatched Energy, Seller will (a) endeavor, by any reasonable means available to Seller, to provide that the amount of Net Electrical Output available to the Department under the Permit Limits is not reduced by such exercise, including by bidding Undispatched Energy to CAISO at prices that take into account Incremental Fuel Costs and the penalties that would apply to Seller if such increase in Facility operation caused it to exceed the Facility’s Permit Limits, and (b) segregate any Incremental Fuel Costs incurred to generate Undispatched Energy from the Fuel Costs reimbursable by the Department under this Agreement and pay such Incremental Fuel Costs.

Dispatch by Seller. Subsequent to Phase 2 COD, at any time that the Facility has Undispatched Energy available, Seller shall have the option to sell such Undispatched Energy to third parties provided that (a) such sales shall not reduce the amount of Net Electrical Output available to the Department under the Permit Limits, (b) Seller segregates any Incremental Fuel Costs incurred to generate Undispatched Energy from the Fuel Costs reimbursable by the Department under this Agreement and pays such Incremental Fuel Costs, and (c) Seller pays the Department fifty percent (50%) of the Net Profit that Seller earns on each such sale, such payment to be provided as a credit against payments due Seller in respect of the Invoice Month following the date that payment for such Undispatched Energy is received by Seller. In the event that Seller elects to exercise such option for any Day, Seller shall schedule any such sales through the Scheduling Coordinator, and Seller shall not schedule any such sales prior to receipt of the Department's Dispatch Notice for such Day unless Seller shall have obtained a prior release to do so from the Department, and in either case Seller shall inform the Department of such sale of Undispatched Energy to third parties. Seller shall be responsible for any imbalance costs resulting solely from the sale of Undispatched Energy to third parties allowed under this Section 5.07.

FUEL

Section 1.06 Coordination of Fuel Procurement. Seller shall manage and cause the delivery of all quantities of Fuel required by the Facility to generate the Net Electrical Output to the extent that the Department does not elect to supply such Fuel pursuant to its options to do so contained in Sections 6.02, 6.05 and 6.06. Seller and the Department agree and acknowledge that, subject to Section 11.03, all Fuel Costs shall be borne solely by the Department, whether incurred by the Department or Seller. The Parties shall coordinate their nomination and scheduling of deliveries of Fuel, giving sufficient time to meet the deadlines of the applicable Fuel transporters. Each of the Parties acknowledges that volumes and deliveries of Fuel not nominated and scheduled on at least a day-ahead basis are subject to limited marketplace availability and substantial price volatility, and to the nomination and scheduling procedures and deadlines set forth in the transporter's tariff(s) and other applicable requirements. Except to the extent specifically agreed upon, nominated and scheduled by the parties, neither party makes any representation or warranty with respect to the availability of volumes or deliveries of Fuel. Seller's obligation to deliver Net Electrical Output is subject to, and dependent upon, the receipt of Fuel required to produce the Net Electrical Output. Seller shall use reasonable efforts to re-market any Fuel or Fuel transportation purchased pursuant to this Agreement but not consumed by the Facility due to non-operation, and the proceeds of such re-marketing will be used to partially offset the Fuel Costs. In the event that Fuel suppliers condition sales to Seller on receipt of a letter of credit, prepayment, escrow, or similar security from Seller, Seller may, by thirty (30) Days' prior written notice to the Department, suspend Seller's Fuel purchase obligations under this Article VI for as long as Fuel suppliers impose such conditions, in which case the Department shall supply all Fuel required by the Facility; provided, however, the Department may direct Seller to manage and arrange for the purchase of Fuel for the Facility as the Department's agent.

Section 1.07 Monthly Fuel Procurement. Within two (2) Business Days of its receipt of a Monthly Dispatch Schedule from the Department, Seller shall obtain a fixed price quote for the supply and delivery of Fuel expected to be necessary, after taking into account the quantities to be delivered under any existing Fuel Supply Contracts entered into by Seller and the Department, for the Facility to produce the amount of Net Electrical Output called for in such Monthly Dispatch Schedule. The Department shall have twenty-four (24) hours after its receipt of the fixed price quote from Seller in which to notify Seller in writing that the Department (a) accepts such quote, or (b) rejects such quote, or (c) elects to procure an equivalent alternate supply of Fuel for the Facility on Seller's behalf. In the event that any fixed price quotes obtained by Seller are not firm for the duration of the Department's review period, if the Department accepts a quote and prices quoted to Seller at the time of commitment to purchase have changed, the Department shall be deemed to have accepted the changed price provided that it is no more than four percent (4%) higher than the first quoted price. In the event that the Department fails to notify Seller within such twenty-four (24) hour period or rejects such quote for a given month, Seller will not purchase Fuel for the Facility until Seller receives from the Department a Weekly Dispatch Schedule at which time Seller will purchase Fuel at the then-prevailing Market Price, which the Department will be deemed to approve. Seller shall, by facsimile or e-mail, confirm to the Department its receipt of each Fuel quote acceptance and the final committed price.

Section 1.08 Weekly Fuel Procurement. In the event that any Weekly Dispatch Schedule provided to Seller by the Department differs from the schedule for such week in the applicable Monthly Dispatch Schedule, Seller shall notify the Department within twenty-four (24) hours of any expected Fuel Costs or difficulties expected to be incurred in modifying its scheduled deliveries of Fuel to support the Weekly Dispatch Schedule, following which the Department shall have twenty-four (24) hours from Seller's notification in which to notify Seller that it will accept and pay for all such additional Fuel Costs or revert to the schedule for such week in the applicable Monthly Dispatch Schedule. If the Department fails to provide such notice, the Department shall be deemed to have elected to revert to the schedule for such week in the applicable Monthly Dispatch Schedule.

Section 1.09 Daily Fuel Procurement. In the event that any Dispatch Notice provided to Seller by the Department differs from the schedule for such Day in the relevant Monthly Dispatch Schedule (or such Day in the relevant Weekly Dispatch Schedule if it has been modified pursuant to Section 5.02), Seller shall use its commercially reasonable efforts to modify scheduled deliveries of Fuel to support the Dispatch Notice, and the Department shall bear all Fuel Costs incurred by on or behalf of Seller in making the modifications.

Section 1.10 Long Term Fuel Procurement.

After consultation with the Department, Seller may solicit offers for the procurement and delivery of Fuel on a multi-month or multi-year basis ("Fuel Supply Contracts") and shall keep the Department apprised of such solicitations. Seller shall provide the Department with a copy of any Fuel Supply Contracts prior to execution for the

Department's review and approval or disapproval, which approval or disapproval the Department shall provide by written notice to Seller within ten (10) Business Days after the Department's receipt of such Fuel Supply Contract. The Department acknowledges that, during such ten (10) Business Day approval period for a Fuel Supply Contract, the terms and conditions of the solicited Fuel bid (including, without limitation, pricing) may not be held firm by the bidder. If the Department fails to provide written notice of its approval or disapproval within the prescribed period, the Department shall be deemed to have rejected such Fuel Supply Contract. Seller shall not be obligated to enter into any Fuel Supply Contract that requires Seller to provide a letter of credit, prepayment, escrow, or similar security.

Without limiting the above, the Department acknowledges that an affiliate of Seller has entered into a contract for the benefit of Seller for 85,000 million Btu/Day of firm gas transportation on Kern River Gas Transmission Company's pipeline expansion by contract dated May 29, 2001, and the Department hereby approves Seller's acceptance of assignment of such contract to Seller. During the Term, and to the extent that (i) the Department elects to supply Fuel to the Facility pursuant to Section 6.02 or Section 6.05, or (ii) the Department does not Dispatch the Facility in any given period, Seller shall cooperate with the Department to facilitate the Department's use of Seller's transportation rights on Kern River Gas Transmission Company's pipeline.

In the event that the Department enters into a Fuel Supply Contract to supply Fuel to the Facility, the Department and Seller will coordinate the management of any such contract with any other Fuel Supply Contracts to which Seller is a party.

Section 1.11 Fuel Plan.

(a) By August 1, 2001, the Department shall provide Seller a schedule indicating the expected level of Dispatch (Maximum Load, Full Load, Part Load, Minimum Load, or zero) of the Facility during the weekday peak and off-peak, Saturday peak and off-peak and Sunday/Holiday peak and off-peak periods of each month for the remaining period ending December 31, 2001. By September 1, 2001, Seller shall provide to the Department a proposed Fuel Plan for the remaining period ending December 31, 2001.

(b) For each full calendar year during the Term, the Department shall provide Seller a schedule indicating the expected level of Dispatch (Maximum Load, Full Load, Part Load, Minimum Load, or zero) of the Facility during the weekday peak and off-peak, Saturday peak and off-peak and Sunday/Holiday peak and off-peak periods of each month during the calendar year by August 1 prior to the commencement of the following calendar year ("Annual Dispatch Schedule"). By September 1, Seller shall provide to the Department a proposed Fuel Plan for the following calendar year based upon the Annual Dispatch Schedule. In lieu of providing an Annual Dispatch Schedule, the Department may, by written notice to Seller, by August 1 of any calendar year that it wishes to act in the role of Fuel Manager for the upcoming calendar year.

(c) The Department shall notify Seller in writing within fifteen (15) Days of the Department's receipt of a proposed Fuel Plan whether the Department approves of such proposed Fuel Plan. In the event that the Department does not accept a proposed Fuel Plan, Seller may amend such proposed Fuel Plan within seven (7) Days of the Department's notice of disapproval. If the Department does not accept Seller's amendments to a proposed Fuel Plan, the Department shall provide Fuel to the Facility for the period covered by the applicable proposed Fuel Plan; in such event, the provisions of Section 6.02, Section 6.03 and Section 6.04 shall not apply and Seller shall be obligated to deliver Net Electrical Output called for in a Dispatch Notice only to the extent that the Department delivers the Fuel necessary to generate such Net Electrical Output. In the event that the Department has rejected a proposed Fuel Plan, has opted to procure Fuel for the Facility but fails to deliver the necessary Fuel to meet the level of Net Electrical Output called for in a Dispatch Notice, Seller shall be excused from performance with respect to that portion of Net Electrical Output called for in such Dispatch Notice for which the Department has failed to deliver Fuel, provided, however, Seller shall be completely excused from performance under such Dispatch Notice if the Department fails to deliver sufficient Fuel to the Facility to operate at least at Minimum Load. In the event the Department elects to provide Fuel to the Facility, Seller shall continue to provide Fuel and transportation services for any contract previously entered into by Seller as approved by the Department, the term of which extends into the calendar year for which the Department elects to provide Fuel to the Facility. Election by the Department to provide Fuel in any calendar year shall not excuse Seller from preparing a proposed Fuel Plan for subsequent calendar years. In such event, Seller shall create such new Fuel Plan based upon existing contracts for Fuel and transportation which have been entered into previously by Seller with the Department's approval in accordance with a previously approved Fuel Plan, and contracts which the Department has entered into.

Fuel Manager. Seller may at its sole discretion contract with a Fuel Manager to procure and manage the delivery of Fuel to the Facility.

PAYMENTS

Capacity Payments. Seller shall be entitled to receive and the Department shall pay Seller amounts for the Contract Capacity ("Capacity Payments") calculated as follows:

Subject to Article VIII, commencing on Phase 1A COD and ending upon Phase 2 COD, the Department shall pay Seller a Capacity Payment which shall be equal to the Contract Capacity (expressed in MW, to two decimal places) multiplied by the payment rate applicable to the relevant Invoice Month set forth in the following table:

Phase 1 Capacity Payments – \$/MW-month	
Jan, Feb, Mar, Oct, Nov, Dec	\$2,250
Apr, May	\$750
Jun, Jul, Aug, Sep	\$26,250

The Capacity Payment for the period, if any, during which Phase 1A COD has occurred but Phase 1B COD has not been achieved shall be based on the daily weighted average Contract Capacity during such period. The Capacity Payment for the month in which Phase 2 COD occurs shall be based on the daily weighted average Contract Capacity and corresponding Phase 1 and Phase 2 payment rates applicable during such month. Notwithstanding the foregoing, in the event that the Conversion Period coincides with a Summer Period for all or a portion of a calendar month, the Capacity Payment for such month will be based on the daily weighted average Contract Capacity delivered or made available and the Phase 1 or Phase 2 payment rate applicable during such month.

Subject to Article VIII, commencing on Phase 2 COD, the Department shall pay Seller a Capacity Payment (“Phase 2 Capacity Payment”), which shall be equal to the Contract Capacity (expressed in MW, to two decimal places) multiplied by the payment rate applicable to the relevant Invoice Month set forth in the following table:

Phase 2 Capacity Payments– \$/MW-month	
Jan, Feb, Mar, Oct, Nov, Dec	\$3,600
Apr, May	\$1,400
Jun, Jul, Aug, Sep	\$38,800

Variable O&M Payments. Each month during the Term, the Department shall pay Seller a variable operation and maintenance (“VO&M”) payment in the amount of \$3.00/MWh multiplied by the Net Electrical Output delivered in such month.

Fuel Payments. Subject to Section 11.03, the Department shall reimburse Seller on a monthly basis for all Fuel Costs.

Section 1.12 Start-Up Payments. The Department shall pay Seller the following Start-Up payments: (a) for each Start-Up or shut-down of the Facility that the Department schedules to occur during a “peak period” as defined in the Utility Rate, the actual demand and energy charges incurred by Seller under the Utility Rate as a result of such Start-Up or shut-down, and (b) an amount equal to the number of Start-Ups of each Unit of the Facility in excess of one hundred (100) Start-Ups of each Unit per year multiplied by the corresponding \$/start in the table below:

Number of Start-Ups per calendar year			
	101-135	136-150	> 150
\$/start	\$300	\$5,000	\$14,000

Section 1.13 Accelerated Maintenance. In the event of an Unscheduled Outage of the Facility, Seller shall, if requested by the Department, complete repairs to the Facility on an accelerated basis (to the extent achievable and consistent with Accepted Electrical Practices), and the Department shall pay for the incremental cost of such acceleration, provided that the scope and incremental costs have been approved by the Department prior to the repairs being made.

ADJUSTMENTS TO CAPACITY PAYMENTS

Section 1.14 Adjustments Based on Increased Operations. In the event that Seller shall have received all necessary additional permits and/or amendments to its existing permits to allow Seller to increase the Facility's or any Unit's operation during Phase 1 in excess of the Permit Limits in effect as of the date of this Agreement, Schedule A shall be amended to reflect such increased hours of operation and the Department shall pay Seller upon presentation of an invoice, in addition to the Capacity Payment, a one-time payment equal to \$607,452 to reimburse Seller's costs of incremental emission credits for such increased operations.

Section 1.15 Adjustments Based on Capital Costs. Within seventy (70) Days after Phase 2 COD, Seller shall provide the Department a schedule of Actual Capital Costs.

For each one hundred thousand dollars (\$100,000) by which Actual Capital Costs exceed Estimated Capital Costs, the Phase 2 Capacity Payment shall be increased by (i) \$1.90/MW-month for exceedances in Capital Costs incurred to complete the Facility in its Phase 1 configuration, and (ii) \$1.50/MW-month for savings in Capital Costs incurred to complete the Facility in its Phase 2 configuration.

For each one hundred thousand dollars (\$100,000) by which Estimated Capital Costs exceed Actual Capital Costs, the Phase 2 Capacity Payment set forth in Section 7.01(b) shall be decreased by (i) \$3.80/MW-month for exceedances in Capital Costs incurred to complete the Facility in its Phase 1 configuration, and (ii) \$3.00/MW-month for exceedances in Capital Costs incurred to complete the Facility in its Phase 2 configuration.

The adjustment for Capital Cost differences of other than even increments of one hundred thousand dollars (\$100,000) shall be calculated on a proportional basis, except that no adjustment shall be made if the entire Capital Cost difference is less than one hundred thousand dollars (\$100,000). The Department shall have the right to audit Seller's records and supporting documentation for Actual Capital Costs in accordance with Section 6.10 of the Master Agreement.

Adjustments Based on Actual Summer Availability. Within fifteen (15) Days following the end of each Summer Period during the Term, Seller shall provide the Department with a statement setting forth the Summer Availability achieved by the Facility during the immediately preceding Summer Period.

In the event that the Summer Availability for such Summer Period exceeds the applicable Contract Availability, then within thirty (30) days following the Department's receipt of the statement described above, the Department shall pay Seller an amount equal to the sum of the Capacity Payments paid to Seller during such Summer Period multiplied by the lesser of (i) the amount by which the Summer Availability for such Summer Period exceeds the applicable Contract Availability, and (ii) five percent (5%).

In the event that the Summer Availability for such Summer Period is less than the applicable Contract Availability, then within thirty (30) Days following the Department's receipt of the statement described above, Seller shall pay the Department an amount equal to the sum of the Capacity Payments paid to Seller during such Summer Period multiplied by the lesser of (i) the amount by which the Summer Availability for such Summer Period is less than the applicable Contract Availability, and (ii) five percent (5%).

Adjustments Based on Actual Annual Availability. Within fifteen (15) days following the end of each calendar year during the Term, Seller shall provide the Department with a statement setting forth the Annual Availability achieved by the Facility during the immediately preceding calendar year.

In the event that the Annual Availability for such calendar year exceeds the applicable Contract Availability, then within thirty (30) days following the Department's receipt of the statement described above, the Department shall pay Seller an amount equal to the sum of the Capacity Payments paid to Seller during such calendar year multiplied by the lesser of (i) the amount by which the Annual Availability for such calendar year exceeds the applicable Contract Availability, and (ii) ten percent (10%).

In the event that the Annual Availability for such calendar year is less than the applicable Contract Availability, then within thirty (30) days following the Department's receipt of the statement described above, Seller shall pay the Department an amount equal to the sum of the Capacity Payments paid to Seller during such calendar year multiplied by the lesser of (i) the amount by which the Annual Availability for such calendar year is less than the applicable Contract Availability, and (ii) ten percent (10%).

METERING

Metering. The terms of that certain Meter Service Agreement for ISO Metered Entities, dated May 3, 2001, by and between Seller and the CAISO, a copy of which is attached hereto as Exhibit B, is hereby incorporated by reference.

TEST ENERGY

Test Energy. Seller shall coordinate the production and delivery of Test Energy with the Department. Test Energy for Phase 1 Term may commence on or after June 15, 2001. Test Energy for Phase 2 Term may commence on or after February 1, 2003. The Department shall cooperate with Seller to facilitate Seller's testing of the Facility and shall purchase all Test Energy delivered to CAISO for the Department's account during the Term of this Agreement at a price of ten dollars (\$10) per MWh plus the VO&M payment and fuel payment delineated in Sections 7.02 and 7.03 respectively.

HEAT RATE AND HEAT RATE TESTING

Heat Rate. The heat rate for the Facility at Standard Site Conditions, Full Load, and “new & clean” condition expressed in Btu/kWh HHV (the “Contract Heat Rate”) shall be as follows:

During Phase 1, the Contract Heat Rate shall be the result of the heat rate test of the Facility conducted in connection with Seller’s acceptance of the Facility in its Phase 1 configuration from the primary contractor constructing the Facility; and

(a) During Phase 2, the Contract Heat Rate shall be the result of the heat rate test of the Facility conducted in connection with Seller’s acceptance of the Facility in its Phase 2 configuration from the primary contractor constructing the Facility. Such test shall be conducted with the Facility at Full Load, according to procedures no less restrictive than those of Section 11.02(a).

The parties acknowledge that the heat rate for the Facility will be higher than the Contract Heat Rate at Minimum Load, Part Load and Maximum Load due to the corresponding off-design operating conditions.

Heat Rate Testing.

The Actual Heat Rate for the Facility shall be determined at the times specified in Section 11.03(a) by heat rate testing at Full Load, corrected for Standard Site Conditions and for degradation back to “new and clean” conditions. Testing shall be performed in accordance with test procedures to be prepared by Seller and submitted to the Department for review and approval, such approval not to be unreasonably withheld or delayed. Seller’s heat rate test procedures will be in general accordance with ASME Power Test Code 22 for Phase I testing, and in general accordance with ASME Power Test Code 46 for Phase II testing. The heat rate test corrections shall include, without limitation, ambient temperature, relative humidity, barometric pressure, natural gas fuel conditions, generator power factor and equipment degradation.

Seller shall be responsible for the full scope of heat rate testing, including but not limited to, furnishing the test instrumentation, set-up, data gathering, fuel analysis, data analysis and the issuance of a final report.

Seller shall provide all raw test data, calculations, fuel analyses and final reports in written and, to the extent reasonably possible, electronic format, to the Department for review.

(b) Seller shall provide to the Department all equipment specifications, correction curves, equations and other information necessary for review of the heat rate test results.

At Seller’s discretion, the initial heat rate test may be the acceptance test of the original equipment manufacturer, provided such test is performed under the guidelines set

forth in Section 11.02(a), and witnessed by one or more representatives of the Department.

Heat Rate Adjustments to Payments.

Not later than thirty (30) Days following the end of each April and October during the Term, Seller shall prepare a statement setting forth the results of a heat rate test conducted pursuant to Section 11.02 above. Within forty (40) Days following the end of each April and October during the Term, Seller shall provide the Department with a statement setting forth the calculations prescribed in Sections 11.03 (b) and 11.03 (c) below, and any payment due to the Department or Seller pursuant to this Section 11.03 shall be paid within thirty (30) Days following the Department's receipt of such statement.

In the event that the Actual Heat Rate determined in the heat rate test conducted during any April or October pursuant to Section 11.02 above divided by the applicable Contract Heat Rate (expressed as a percentage, the "Heat Rate Ratio") exceeds one hundred three percent (103%), Seller shall pay the Department an amount equal to the product of (x) the sum of the Fuel Costs for the six calendar months ended as of the end of the applicable April or October, and (y) the applicable Heat Rate Ratio less one hundred three percent (103%).

In the event that the Heat Rate Ratio determined during any April or October is less than ninety-seven percent (97%) of the applicable Contract Heat Rate, the Department shall pay Seller an amount equal to the product of (x) the sum of the Fuel Costs for the six calendar months ended as of the end of the applicable April or October, and (y) ninety-seven percent (97%) less the applicable Heat Rate Ratio.

TERMINATION

Termination. This Agreement and the Master Agreement shall continue for the Term unless terminated as follows:

By the mutual agreement of the parties hereto;

By Seller, upon the occurrence of a Downgrade Event as set forth in the Master Agreement;

(c) In connection with a continuing Force Majeure as set forth in the Master Agreement;

(d) In connection with an Event of Default as set forth in the Master Agreement;

(e) By either party in the event that Phase 1A COD shall not have occurred by June 1, 2002;

(f) By either party in the event that Phase 2 COD shall not have occurred by June 1, 2004; or

(g) By Seller in the event that (i) the other Definitive Agreements (as defined in the MOU) are not executed when otherwise required thereunder, or (ii) after the execution of the foregoing Definitive Agreements, either (A) any legislation is enacted or any rule, regulation or order is adopted by the CPUC which would have the effect of overturning, in respects materially adverse to SCE, those CPUC Implementing Decisions (as defined in the MOU) which were adopted prior to the execution of the Definitive Agreements, or (B) any material penalty is imposed by the CPUC in respect of the relationship between SCE and EIX prior to April 9, 2001, including, without limitation, any matters raised in Order Instituting Investigation 01-04-002.

Neither party shall be entitled to receive a Termination Payment (as defined in Section 5.2 of the Master Agreement) in connection with termination of this Agreement and the Master Agreement for any reason other than Section 12.01(d) above. With respect to Section 12.01(g) above, Seller shall have ninety (90) days from the occurrence of any event set forth in Section 12.01(g) in which to determine whether it shall terminate this Agreement and the Master Agreement; termination by Seller of this Agreement and the Master Agreement pursuant to Section 12.01(g) above shall be effective ninety (90) days from the Department's receipt of Seller's notice of termination or such earlier date as the Department and Seller shall mutually agree.

MISCELLANEOUS

Financing; Consent to Assignment. The parties recognize and agree that Seller's interest in the Facility and Seller's rights under this Agreement and the Master Agreement may be mortgaged, pledged or otherwise encumbered in order to provide security or collateral in order to finance the construction and/or operation of the Facility. The Department shall execute any consents, approvals or other documentation as the lenders may reasonably request to evidence such assignment in accordance with customary practices in transactions of this nature.

Counterparts. This Agreement may be executed in any number of counterparts, and upon execution by the parties, each executed counterpart shall have the same force and effect as an original instrument and as if the parties had signed the same instrument. Any signature page of this Agreement may be detached from any counterpart of this Agreement without impairing the legal effect of any signatures thereon, and may be attached to another counterpart of this Agreement identical in form hereto but having attached to it one or more signature pages.

Section 1.16 Entire Agreement. This Agreement and the Master Agreement when executed and delivered, shall constitute one, single integrated agreement and set forth the entire agreement by and between the parties and supersedes any prior understandings, agreements or representation by or between the parties, written or oral, to the extent they have related in any way to the subject matter hereof and thereof. Notwithstanding anything to the contrary, in the event of a conflict or an inconsistency between this Agreement and the Master Agreement, the terms of this Agreement shall control.

Section 1.17 Change in Law or Regulation. The Department and Seller acknowledge that market prices for Energy and capacity are subject to significant fluctuations over time, that the payments to Seller provided for in this Agreement may be lower or higher relative to prevailing market prices at any given time or in total, and that neither condition shall affect the binding nature of this Agreement. However, in the event that a change in California Law subsequent to the date of this Agreement has the effect of imposing additional costs on Seller beyond those that would have been imposed prior to such change in California Law, the Department and Seller shall in good faith negotiate and make changes to this Agreement and/or the payments contemplated hereunder that will have the effect of leaving Seller no worse off than if the change in California Law had not occurred.

* * *

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representative as of the date first written above.

**DEPARTMENT OF WATER
RESOURCES**

By: _____

Name: Raymond D. Hart

Title: Deputy Director

SUNRISE POWER COMPANY, LLC

By: _____

Name: Ronald Litzinger

Title: Authorized Representative

Schedule A

Permit Limits

Phase 1

During 2001, each Unit may operate no more than (x) 950 hours during the period from July 1 through September 30, and (y) 200 hours during the period from October 1 through December 31. For each Start-Up of a Unit in excess of 60 times during period (x) or 13 times during period (y), the maximum allowable number of operating hours during such period shall be reduced by 1.1 hours.

During 2002, each Unit may operate no more than (a) 200 hours during the period from January 1 through March 31, (b) 384 hours during the period from April 1 through June 30, (c) 950 hours during the period from July 1 through September 30, and (d) 200 hours during the period from October 1 through December 31. For each Start-Up of a Unit in excess of 13 times during period (a), 24 times during period (b), 60 times during period (c), or 13 times during period (d) the maximum allowable number of operating hours during such period shall be reduced by 1.1 hours.

In the event that Phase 1 is extended into 2003, the same limits shall apply as those for 2002.

No Unit may be operated at a load below Minimum Load during any year, except during Start-Up or shut-down.

Phase 2

Upon receipt of CEC certification and a PSD permit for Phase 2, Seller shall amend this schedule to incorporate the operating limits set forth therein, which are anticipated to allow the Facility to operate throughout the year without limiting operating hours at Unit loads at Minimum Load and above, except as may be impacted by the number of Start-Ups.

Schedule B

Estimated Capital Costs

	SIMPLE CYCLE	COMBINED CYCLE CONVERSION
Cost Category	\$000	\$000
<i>Plant & Equipment</i>		
Combustion Turbines	\$80,000.0	
Heat Recovery Steam Generators & Steam Turbine		\$45,700.0
Engineer/Procure/Construct (EPC) Contract	\$61,368.0	\$125,393.6
Dry Cooling Option	n/a	n/a
Substation Interconnection	\$13,005.2	\$2,000.0
Transmission Line/Switchyard Upgrades	<i>Incl. with EPC</i>	\$5,297.8
Gas Pipeline & Metering Station	<i>Incl. with EPC</i>	<i>Incl. with EPC</i>
Water Supply Interconnection	<i>Incl. with EPC</i>	\$13,200.0
Waste Water Disposal Pipe & Wells	\$400.0	\$1,500.0
Union Craft Labor Incentives	\$500.0	\$0.0
Additional General Electric Commissioning Support	\$400.0	\$0.0
Emission Offsets	\$3,582.0	\$4,370.0
Permit / County Building Office Fees	\$800.0	\$800.0
EPC Contractor Schedule Bonus	\$300.0	\$0.0
EPC Contractor Start-Up Services	<i>Incl. with EPC</i>	<i>Incl. with EPC</i>
Initial Spare Parts	\$4,194.1	\$660.0
Pre-Commercial Capital (tools, office & shop equipment, software, etc.)	\$495.3	\$302.2
Pre-Commercial Operations & Maintenance	\$524.6	\$315.8
Pre-Commercial Fuel* & Purchased Power	\$288.0	\$343.0
Initial Fills of Consumables	\$0.0	\$102.9
TOTAL Plant & Equipment	\$165,857.2	\$199,985.3
Owner's Contingency	\$0.0	\$0.0
Sales Taxes	\$6,445.0	\$6,440.1
Land / Rights of Way	\$300.0	\$200.0
TOTAL Hard Cost	\$172,602.2	\$206,625.4
GRAND TOTAL Hard Cost	\$379,227.6	

* other than during production of Test Energy

Exhibit A

SUNRISE POWER COMPANY, LLC

FORM OF DISPATCH NOTICE

For: June __, 2001

Hour Ended:	Units Dispatched On	Expected Capability
1	1	165
2	1	165
3	1	166
4	1	165
5	1	165
6	1	163
7	1	161
8	1	159
9	1	157
10	1	155
11	1	153
12	1	151
13	1	150
14	1	149
15	1	149
16	1	149
17	1	150
18	1	151
19	1	153
20	1	155
21	1	157
22	1	159
23	1	161
24	1	163

Expected Daily Temperatures, F

62 Low
88 High

Contact Information:

Scheduling Coordinator

Chris Jylkka

617-912-5637

Plant

Leo Allegranza
661-392-2647

CDWR

Pete Garris
916-574-1299

Exhibit B
Metering Services Agreement

TABLE OF CONTENTS

	Page
ARTICLE I DEFINITIONS.....	2
Section 1.01 Definitions.....	2
Section 1.02 Interpretation.....	7
ARTICLE II TERM/COMMERCIAL OPERATION OF THE FACILITY	9
Section 2.01 Term.....	9
Section 2.02 Phase 1 Actual Commercial Operations	9
Section 2.03 Phase 2 Actual Commercial Operations	9
Section 2.04 Penalty for Delayed Phase 1	10
Section 2.05 Progress Reports	10
ARTICLE III PURCHASE AND SALE OF CONTRACT CAPACITY AND NET ELECTRICAL OUTPUT	10
Section 3.01 Purchase and Sale of Contract Capacity and Net Electrical Output.	10
Section 3.02 Capacity Testing	10
Section 3.03 Contract Capacity.....	11
Section 3.04 Transmission and Scheduling.....	11
ARTICLE IV AVAILABILITY; SCHEDULED OUTAGES.....	12
Section 4.01 Availability Schedule.....	12
Section 4.02 Availability Notice.....	12
Section 4.03 Scheduled Outages.....	12
Section 4.04 Notice Suspension.....	12
ARTICLE V DISPATCH; START-UPS	12
Section 5.01 Dispatch	12
Section 5.02 Estimated Dispatch Schedules	13
Section 5.03 Notice Suspension.....	14
Section 5.04 Intra-Day Dispatch.....	14
Section 5.05 Imbalance Costs	14
Section 5.06 Dispatch by CAISO	14
Section 5.07 Dispatch by Seller	14
ARTICLE VI FUEL.....	15
Section 6.01 Coordination of Fuel Procurement.....	15

TABLE OF CONTENTS

(continued)

	Page
Section 6.02 Monthly Fuel Procurement	15
Section 6.03 Weekly Fuel Procurement.....	16
Section 6.04 Daily Fuel Procurement	16
Section 6.05 Long Term Fuel Procurement.....	16
Section 6.06 Fuel Plan	17
Section 6.07 Fuel Manager.	17
ARTICLE VII PAYMENTS.....	18
Section 7.01 Capacity Payments.....	18
Section 7.02 Variable O&M Payments.....	18
Section 7.03 Fuel Payments.....	18
Section 7.04 Start-Up Payments.	19
Section 7.05 Accelerated Maintenance.....	19
ARTICLE VIII ADJUSTMENTS TO CAPACITY PAYMENTS	19
Section 8.01 Adjustments Based on Increased Operations.....	19
Section 8.02 Adjustments Based on Capital Costs	19
Section 8.03 Adjustments Based on Actual Summer Availability	20
Section 8.04 Adjustments Based on Actual Annual Availability	20
ARTICLE IX METERING	21
Section 9.01 Metering.....	21
ARTICLE X TEST ENERGY	21
Section 10.01 Test Energy	21
ARTICLE XI HEAT RATE AND HEAT RATE TESTING	21
Section 11.01 Heat Rate.....	21
Section 11.02 Heat Rate Testing.....	21
Section 11.03 Heat Rate Adjustments to Payments.....	22
ARTICLE XII TERMINATION.....	23
Section 12.01 Termination.....	23
ARTICLE XIII MISCELLANEOUS	23
Section 13.01 Financing; Consent to Assignment	23
Section 13.02 Counterparts	24

TABLE OF CONTENTS
(continued)

	Page
Section 13.03 Entire Agreement.....	24
Section 13.04 Change in Law or Regulation	24